

## ACADEMIC COUNCIL

**Minutes of Videoconference Meeting  
May 26, 2021****I. Consent Calendar**

1. Today's agenda items and their priority
2. Draft Academic Council Minutes of April 28, 2021
3. Assembly Apportionment for 2021-22
4. Reappointment of Senate Parliamentarian
5. Appointment of 2021-22 UCOC Vice Chair

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

**II. Senate Officers Announcements**

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

May Regents Meeting: The Board of Regents elected Cecilia Estolano as its new chair and Richard Leib as its new vice chair, effective July 1. Outgoing chair John Pérez will chair the Health Services Committee and Lark Park will lead the Academic and Student Affairs Committee. The Regents reviewed the UC Health strategic plan and budget, and discussed cohort-based tuition in anticipation of a vote in July. They also established a Special Committee on Innovation Transfer and Entrepreneurship and accepted the report of the Working Group on Innovation Transfer and Entrepreneurship, which will be circulated for systemwide review in the next academic year, along with a possible APM revision.

UCEP Meeting with Chegg: Earlier this month, UCEP met with representatives from Chegg to discuss faculty concerns about Chegg's business model and platform, with particular focus on concerns related to academic integrity and intellectual property. UCEP has asked the UC General Counsel to explore these concerns further.

Climate Crisis Meetings: The systemwide Senate is launching a new effort to address the climate crisis. In June, the Senate chair and vice chair will host a series of meetings with faculty climate activists from each campus, to discuss strategies for building a coordinated effort by the Academic Senate across the system to address the crisis.

Instructor Survey: Earlier this month, the systemwide Senate circulated a survey to UC faculty and instructors about their experiences with remote instruction during the pandemic. More than 4,300 individuals have responded so far. The survey will remain open for a few more days to allow individual campuses to send reminders to faculty in case some individuals would still like to participate.

Ethics Compliance and Audit Services (ECAS): Senate leaders are working with the UCOP Office of ECAS on best practices for communicating with and supporting faculty in the area of data protection and related regulations. The Senate is encouraging a service-oriented rather than a compliance approach to these issues.

June Council Meeting: The Regents will hold a Special Meeting on June 23 to discuss UC Health hospital affiliations. The Academic Council meeting scheduled for that day will be held from 9 am to 1 pm to allow the Council chair and vice chair to attend the meeting.

### **III. Senate Priorities**

Last week, Senate leaders asked the chairs of Senate divisions and systemwide committees for their views on the most pressing issues facing UC this academic year, the Senate's effectiveness in addressing the issues, and the most important issues expected in the coming year.

Chair Gauvain presented a chart showing that respondents had identified the pandemic, instructional mode, healthcare affiliations, and the budget as among the most important issues of 2020-21. Another graph displayed time allocation information for Academic Council meetings between September 2020 and May 2021. Among other information, it showed that the Council had allocated 25% of its agenda time to discussions with senior managers; 19% to systemwide committee items; 10% to systemwide reviews; and 6% to divisional chair issues. As to systemwide committee business specifically, items brought to Council by P&T, UCFW, and BOARS made up 50% of this time.

Chair Gauvain noted that the Senate works with three kinds of issues: 1) matters directly related to the Senate's charge such as admissions, academics, and the APM; 2) matters that are not directly in the purview of the Senate, but affect the Senate and faculty such as labor negotiations, Title IX regulations; and 3) other matters of general importance to the UC as a whole such as campus safety. She said Council, often by necessity, spends much of its time reacting to systemwide issues. This practice ultimately constrains the Senate's ability to identify and address other important issues proactively, such as the climate crisis, and other issues in the Senate purview including admissions and transfer. She also noted that the Senate's deliberateness in examining issues is a great strength, however, when the rate of change at the University is rapid, it can outpace the ability of the Senate to contribute on certain key matters. She encouraged Council to consider how to be more proactive in identifying and addressing important issues. Responses to the question about upcoming issues will be discussed at the June meeting.

- Council members noted that an annual exercise to identify priorities can help maintain year-to-year continuity and knowledge. They agreed that Council's exchanges with senior managers are important but could be better focused and also that Council should encourage systemwide committees to be more proactive. Division chairs noted that Council provides a valuable forum for chairs to share best practices.

### **IV. Proposed Presidential Policy on Classification of Gifts and Sponsored Awards**

Council reviewed comments from Senate divisions and committees to a proposed Policy on Classification of Gifts and Sponsored Awards, intended to provide a revised framework for the classification of different forms of external private support. The aim is to help ensure that gifts and sponsored awards receive proper stewardship, accounting, compliance review, and oversight. The Policy describes the characteristics of and distinctions between "gifts" and "sponsored awards"; identifies criteria campuses should consider in characterizing external support; and includes a decision tree with weighted criteria for use in characterizing support as a gift or sponsored award. The Council discussion summarized some of the concerns expressed in the campus and committee letters:

- The Policy is inconsistent in its guidance about how to characterize a grant as a “gift” or “sponsored award” and such be reviewed to clarify the guidance.
- The Policy suggests that administrators are not obligated to follow the decision tree criteria begs the question of why the policy is being established.
- The decision made for the assignment of funding to either classification will impact the PI and the project. Therefore, if the funding has characteristics of either or both gifts and sponsored awards, PIs should have an opportunity to opine on how their external funding awards are classified.
- The Policy should clarify the treatment of gift fees and indirect costs (IDC). It should also consider implementing different tiers for IDC recovery to increase affordability for more agencies or foundations.
- The Policy should include more information and guidance about to handle such awards when they are made to graduate students.

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

## **V. Proposed Presidential COVID-19 Vaccination Policy**

Council reviewed comments from Senate divisions and committees to a proposed policy that would require or mandate that students, faculty, academic appointees, and staff who access campus facilities to be immunized against COVID-19 beginning in fall 2021. The policy allows for exceptions based on religious belief and medical conditions. Reviewers expressed strong support for a university-wide vaccine mandate, noting that it will advance the public health imperative to control the virus and support UC’s plan to safely reopen campuses and resume normal teaching and research activities in fall 2021. Senate groups also raised concerns about specific elements of the policy and its implementation. Council members made the following comments.

- The policy is vague and equivocal about scope of the mandate and its enforcement, which could undermine its effectiveness. Several members expressed support for implementing and enforcing the mandate on an earlier timeline rather than waiting until full FDA licensure.
- The policy’s religious exemption is unnecessarily broad, which makes it prone to misuse. Similarly, the scope of medical exemptions should be more clearly defined, and narrowed to cover only valid medical conditions recognized by the CDC and the FDA. The Council also takes issue with the suggestion in the policy that campus personnel granted a religious or medical exception could choose their own non-pharmaceutical intervention (NPI).
- The Council is firm on the view that UC is not obligated to offer unvaccinated individuals, with or without an exemption, accommodations to participate in activities remotely. In this regard, it is imperative that campuses not require faculty to accommodate unvaccinated students with dual mode instruction. The process for responding to student requests for accommodations should be rigorous, and exceptions granted minimally. Additionally, faculty should not be expected or required to verify the vaccination status of students.
- The policy should offer clearer guidance about how the mandate will apply to international students vaccinated in their home country and which international vaccines the University will accept. It should also address a requirement for booster shots if they become necessary.
- The Senate supports strong privacy protections for students and employees around their health information and vaccination status. It also urges UC to avoid actions that would stigmatize those who decline the vaccine or are given an exemption.

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

## **VI. 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**

Pandemic: President Drake noted that the COVID-19 situation is improving. Cases and hospitalizations at UC and in California are very low. Vaccines will help ensure a safe campus environment in the fall, and UC will issue a vaccine mandate following full FDA approval.

UC Budget: The Governor's May Budget Revision includes a \$506.9 million increase in ongoing funding for UC, including restoration of the \$300 million cut from 2020 and a \$173.2 million ongoing increase to the University's base budget. The budget also includes \$300 million in one-time State general funds and a \$150 million federal allocation for deferred maintenance.

Affiliations: Two bills in the California Legislature related to healthcare affiliations (SB 379 and AB 705) are on hold ("in suspense") until January 2022.

Campus Safety Plan: Next week, UCOP will release for 30-day systemwide review a proposed Campus Safety Plan. The Plan is informed by the social justice symposia held earlier this spring. It should be considered a living document and the first step in an ongoing process of review and modification.

Funding Framework: Provost Brown reported that the Governor has signaled interest in implementing a multi-year funding framework for UC. It would support UCOP's 2030 Framework, a plan emphasizing UC's commitment to produce more degrees and grow and diversify the professoriate. The Provost said he wants to tap into the most diverse UC campuses as a way to advance graduate student and faculty diversity at all UC campuses.

Master's Program Reviews: Provost Brown said he is considering a proposal to move the delegated approval authority for state- and self-supporting Master's programs from UCOP and the systemwide Senate to the campus chancellors and division senates. In his view, while the systemwide review of academic doctoral programs remains important, the review of Master's programs is more appropriately situated on the campuses.

- Council members encouraged President Drake to reject the proposal for Systemwide Response Teams included in the recent revision to the Gold Book. They recommended that the University issue a stronger vaccine mandate on a quicker timeline with very narrow religious and medical exemptions, and they noted concerns about providing too much flexibility around instructional modality.
- President Drake responded that the Gold Book review will not restrict UC's efforts to rethink policing policies and procedures. He said the vaccine mandate is intended to create a safe campus environment by encouraging the vaccination of as many people as possible. He expects the mandate to tighten as fall approaches, depending on the progress made to achieve herd immunity. He said he expects medical and religious exemptions to be extremely narrow.
- Council members expressed strong concerns about the Provost's proposal to remove Master's program reviews from the systemwide Senate. They also asked the Provost to comment on the status of efforts to close the UC faculty pay gap, and noted that the recent history of multi-year funding agreements between UC and the state includes many broken promises.

- Provost Brown responded that he intends to engage the Senate on strategies for strengthening the campus review of Master’s programs, and he will visit CCGA and UCPB to discuss his proposal. He added that closing the faculty salary gap by investing in the faculty salary scales remains a high priority.

## **VII. Mid-Career Leadership Award (Executive Session)**

**ACTION: Council selected Professor Tara Javidi (UCSD) and Professor Steven Cheung (UCSF) as the 2021 recipients of the award.**

## **VIII. Systemwide Review of Proposed Revision to Senate Bylaw 336.F.3**

Council reviewed comments from Senate divisions and committees to a revision to Senate Bylaw 336.F.3 proposed by UCPT. UCPT Chair Hankamer and Vice Chair Ferrero, Systemwide Title IX Coordinator Taylor, and Senior Counsel Meltzer also joined the meeting.

The revision responds to federal regulatory changes that require a Title IX hearing for cases involving SVSH. Given concerns about duplication of effort and the burden on parties to go through two full hearings, UCPT adopted a recommendation to accept evidence from the Title IX hearing in SVSH-related discipline cases for subsequent P&T hearings. It notes that new evidence, including witness testimony, about a potential violation of SVSH Policy will not be permitted unless the P&T Hearing Committee determines that the evidence pertains to newly discovered facts that might affect the determination of a violation of the Faculty Code of Conduct that were not discoverable at the time of the Title IX process. The intent is to align Senate bylaws with the federal regulations while preserving the right to a hearing for a faculty member facing discipline. UCPT also proposed an additional change to 336.F.6, to clarify that exhibits submitted to the Hearing Committee qualify as being presented at the hearing.

- In their letters, reviewers had suggested several changes and clarifications including new wording to emphasize that the P&T Hearing Committee will accept a written determination, not a “decision,” from the Title IX process.
- Individual Council members expressed concern that the revision could dilute the Senate’s role in discipline, remove the faculty’s right to a hearing before their peers, and tie the hands of P&T hearing committees, who need flexibility to have investigative powers.
- Chair Hankamer said the revision does not remove power from P&T hearing committees but clarifies that committees can rely on admitted evidence from the Title IX process. Counsel Meltzer and Coordinator Taylor noted that UC had not yet addressed a case under the new Title IX process, which includes robust due process safeguards for both complainant and respondent similar to the P&T process, including the right to a full hearing and appeal. They expressed concern that the prospect of a second hearing could deter complainants from bringing forward cases.
- Council members requested a new sentence clarifying the right of the P&T Hearing Committee to conduct an additional investigation: “The P&T Hearing Committee may carry out any investigation it deems appropriate for the determination of a potential violation of the Faculty Code of Conduct.” There was some concern that the sentence could open the door to a second full hearing, but others emphasized that it simply clarifies that the Hearing Committee, not the parties, could reopen a case if new evidence emerges.

**ACTION: A motion to approve the revision to Bylaw 336.F.3. with the amendments was made and seconded. Chair Gauvain asked for objections, and hearing none, announced that the revisions would be forwarded to the Assembly.**

**A motion to accept the additional change to 336.F.6 was made, seconded, and passed unanimously.**

#### **IX. Proposed Revision to Senate Regulation 610**

Council reviewed comments from Senate divisions and committees to a revision to Senate Regulation 610 proposed by UCEP. The revision eliminates an ambiguity in the definition of “residency” to clarify that it is not necessarily linked to physical presence on campus. Senate reviewers expressed broad support for the proposal, although there was also some concern that it could open the door to fully online degrees and suggest a student could earn UC degree without setting foot on campus. UCEP Chair Potter noted that campus Senate divisions are free to implement a more restrictive local regulation around physical presence, and UCRJ has interpreted SR 610 as allowing fully online degrees already. He also said it will be important for the Senate to follow-up on the Online Undergraduate Degree Task Force recommendation to create guidelines for UC-quality online degree.

**ACTION: A motion to endorse the revisions was made and seconded. Chair Gauvain asked for any objections, and hearing none, announced that the revisions would be forwarded to the Assembly.**

#### **X. Presidential Policy on Native American Cultural Affiliation and Repatriation**

Council reviewed proposed revisions to a Presidential Policy on Native American Cultural Affiliation and Repatriation (NACAR). The Policy updates UC’s compliance with the federal and state versions of the Native American Graves Protection and Repatriation Act (NAGPRA), and strengthens UC policy and practices related to the curation, repatriation, and disposition of Native American remains and cultural items in UC custody. The revision incorporates elements of Assembly Bill 275, which made additional changes to CalNAGPRA, including a requirement that UC campuses prepare preliminary inventories and summaries of all items in their custody by January 1, 2022, and defer to tribal traditional knowledge, oral histories, documentation, and testimonies in their analyses and decisions about cultural affiliation and repatriation.

Senate reviewers expressed strong support for the policy’s goals to prioritize repatriation, better incorporate tribal input into UC processes, and increase the promptness and consistency of UC’s responses to repatriation requests. Council members emphasized that campuses with NAGPRA-eligible items will require additional resources and staffing to meet the compliance requirements. They also noted that a small group of faculty, including many junior faculty and faculty from underrepresented groups, will more than likely perform much of the implementation work. The Council wants the University to find ways to support and recognize these faculty.

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

#### **XI. CCGA Proposed Guidelines on Joint and Dual Degrees**

- **Amr El Abbadi, CCGA Chair**

CCGA has prepared a set of guidelines for the review of dual degree graduate programs for inclusion in the CCGA Handbook and the Compendium. Such programs are offered collaboratively by two institutions and lead to separate degrees from each institution. In contrast,

joint degree programs are offered collaboratively by two institutions and lead to a single joint degree. CCGA would like the Academic Planning Council to consider the Guidelines in the next revision of the Compendium.

**ACTION: Council will forward the proposed Guidelines to the Provost's office.**

## **XII. BOARS Letter on CA State Auditor Requests of Campus Admissions Officers**

### **o Eddie Comeaux, BOARS Chair**

Council reviewed a letter from BOARS expressing concern that the California State Auditor's request for details about individual campuses' undergraduate admission selection processes is an inappropriate overreach. BOARS' main concern is that publicizing the exact details of selection procedures will encourage efforts to abuse the system, advantage better resourced students, and conflict with principles of fairness and equitable access. BOARS also emphasized that the request is impractical given that most campuses use 13 selection factors in holistic review, do not assign uniform or fixed weights to those factors, and rely on the professional judgment of admission reviewers. BOARS recommends that uniform campus messaging to the CSA will support admission offices. It also stresses that this approach will support the ongoing integrity and fairness of the UC admissions process.

**ACTION: A motion to move the letter forward to Division Chairs, Provosts, and Admissions Directors was made, seconded, and passed unanimously.**

## **XIII. Small Business First Policy**

- o William Cooper, Associate Vice President/Chief Procurement Officer**
- o Stephanie Lopez, Special Programs Manager, Procurement Services**

UC Procurement officials joined Council to discuss the Senate's concerns about Presidential Policy BFB-BUS-43 (Purchases of Goods and Services; Supply Chain Management), particularly the new "Small Business First" program. They also provided Council with written responses to feedback received in April from the systemwide review.

Associate Vice President Cooper noted that the policy is intended to strengthen the University's economic support of California small businesses. He said the systemwide review had generated good questions and points of clarifications. He emphasized that the policy is not designed to sacrifice quality or service. He said small businesses do not necessarily charge more for products and services, but also acknowledged the limitations to what small businesses can provide in a University environment, especially in specialized research areas and especially the life sciences. Given these limitations, the policy allows campuses wide latitude to grant waivers when appropriate.

Special Programs Manager Lopez added that Procurement Services is working with campuses to identify small business suppliers and to define the local waiver process. Most campuses are using waivers judiciously during implementation. Several locations are leveraging blanket waivers for certain groups or across certain cost thresholds and are granting more waivers during training and process refinements. Locations also are providing faculty with reliable lists of small business suppliers and ensuring that relevant administrators on each campus are routinely checking in with faculty to answer questions and resolve problems.

- Council members expressed support for the values motivating the policy, but also encouraged administrators to consider the efficiency of the overall purchasing process, the faculty and staff time waiting for a part or service from a small business that might have been

obtained more quickly, and the effort involved in preparing a waiver application to demonstrate it is not possible to buy a piece of technical equipment from a small business. Council members also observed that the proposal to pre-qualify small businesses before a research proposal is funded will put undue burdens on the investigator's time and effort for proposals that may never be funded. Moreover, it is often difficult to fully predict research needs in advance.

- Administrators responded that the first responsibility of Procurement is to provide continuous supply support, and that correct implementation of the policy ("where appropriate") should not affect purchasing times. They suggested that campus operational issues, not the Small Business First Policy, were probably behind most purchasing delays. They emphasized that the policy encourages purchasing from small businesses where practical and that exemptions and waivers would be granted liberally. The policy also permits buyers to sidestep the formal competitive bid process in some cases, which will reduce procurement time. Administrators agreed to prepare a summary sheet of resources and campus contacts to support faculty facing problems.

#### **XIV. UCPB Recommendations on Rebenching**

- **Sean Malloy, UCPB Chair**

Council reviewed a UCPB letter with three recommendations for increasing the equitable funding of UC campuses. The recommendations were inspired in part by a November 2020 UCOP presentation to the Regents, during which UCR Chancellor Wilcox noted that UCR receives fewer dollars per student than any other campus due to "rebenching," which is the funding model that allocates state funds across UC campuses based on a weighted enrollment formula. Rebenching formulas provide more financial support for Ph.D. and Health Sciences enrollments than for undergraduates. Another funding model, called "funding streams", is also in use at UC, and it allows campuses to retain revenues they generate, including nonresident tuition. This model disadvantages campuses with higher CA resident enrollments. UCOP is addressing the claim that rebenching hurts campuses with fewer Ph.D. and health sciences students by implementing a 95% "guardrail" on rebenching in the 2021-22 budget. The guardrail will use new state funds to reduce campus disparities that result from the student-type weighting used in rebenching. It will do so by ensuring that no campus falls below 95% of the average systemwide per-student funding as calculated on an unweighted basis. Finally, UCPB notes that 28% of state funds are dispensed as set-asides under rebenching. Based on this information, UCPB recommends the following:

1. Further study of the student weighting system and other measures to address funding inequities across campuses is needed.
2. Regular re-assessments of rebenching set-asides is needed.
3. Modeling options for sharing across the campuses, or "socializing", a portion of nonresident tuition revenue for redistribution across campuses should be conducted to inform discussion about inequities.

Council members agreed that the larger underlying problem is the state's failure to properly fund the University. If UC is to survive as a system of ten campuses it needs broader analysis and understanding of structural inequities, including in relation to chronic underfunding by the state. It was noted that funding streams incentivizes entrepreneurial behavior, which can be positive, but the current incentive structure also pushes the system apart. Members suggested that UCPB make a stronger statement about the need to reassess the weighting system and for modeling to anticipate the possibility that the state will force UC to reduce nonresident enrollment.



**ACTION: Council will revisit the UCPB letter next month and draft an additional statement on the issue of state funding to accompany the UCPB letter.**

**XV. New Business**

A Council member raised the issue of UC academic graduate student employees living abroad who may not be able to return to the United States in the fall and who by UC rules are prohibited from working remotely and collecting a paycheck out of the country. A systemwide resolution informed by legal advice may be needed.

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Meeting adjourned at 4:00 pm  
Minutes prepared by Michael LaBriola, Assistant Director  
Attest: Mary Gauvain, Academic Council Chair