

ACADEMIC COUNCIL

Minutes of Meeting
March 30, 2016**I. Consent Calendar**

1. Today's agenda items and their priority
2. Draft Council minutes of February 24, 2016
3. Approval of new degree programs per Compendium
 - o UC Irvine Master of Laws in American Law (LL.M.)
4. April 13 Assembly teleconference agenda

ACTION: Council approved the consent calendar.

II. Senate Officer's Announcements

- o **Dan Hare, Academic Senate Chair**
- o **Jim Chalfant, Academic Senate Vice Chair**
- o **Hilary Baxter, Academic Senate Executive Director**

March Regents Meeting: The Regents approved new pension plan terms for UC employees hired on or after July 1, 2016. The approved plan differs in some respects from the one proposed by the Retirement Options Task Force and [reviewed by the Senate](#), particularly in its more generous approach to the Defined Contribution supplement available to faculty. The approved plan responds to the Academic Council's recommendation to offer a DC supplement for faculty that begins on the first day of hire and on the first dollar earned, irrespective of one's salary below the PEPRA cap. The adopted plan will give Assistant Professors in most disciplines, such as those in the Humanities, Social Sciences, and the non-medical Life Sciences starting their career at the systemwide median salary to have an opportunity to receive about the same replacement income as their colleagues hired under the 2013 tier. The Regents also adopted a [Statement of Principles Against Intolerance](#), after accepting a last minute amendment to the Statement's contextual pre-ambles proposed by the University Committee on Academic Freedom (UCAF) and [endorsed by Council](#). The Senate's amendment clarified that "anti-Semitic forms of anti-Zionism" rather than simply "anti-Zionism" should be considered discrimination, to distinguish anti-Semitism from anti-Zionism – a political viewpoint protected under the First Amendment and academic freedom. Finally, the Regents approved the appointment of UCSD Professor Joel Dimsdale as the Senate representative to the Committee on Health Services.

UC Transfer Pathways: UC Transfer Pathway agreements for 11 majors reached by faculty delegates in October and approved by campuses have been added to the systemwide Transfer Pathways website (<http://admission.universityofcalifornia.edu/transfer/preparation-paths/>). The Senate has also developed a procedure for adding smaller, specialized majors on specific campuses to an existing Pathway. So far, several majors in physics, economics, and the life sciences at several campuses have linked to an existing Transfer Pathway that provides the expected pre-transfer preparation. The next step is for UCOP to examine articulation gaps between specific community colleges and the nine undergraduate UC campuses for courses in the Pathways.

UCRS Advisory Board: Senate Vice Chair Chalfant is stepping down from his position as one of two Senate representatives to the UCRS Advisory Board in anticipation of his increased workload as Senate chair. The Senate office has requested nominations for an individual to serve the remaining two years of his term, effective July 1, 2016, and ending June 30, 2018. Service will also require in-person attendance for monthly UCFW meetings and TFIR conference calls.

III. Systemwide Senate Review: Guiding Principles for Search Waivers

- **Susan Carlson, Vice Provost, Academic Personnel**
- **Janet Lockwood, Director-Academic Policy and Compensation, Academic Personnel**
- **Nancy Tanaka, Executive Director, Academic Personnel**

Nine Academic Senate divisions and two systemwide committees submitted comments about a set of proposed Guiding Principles for the use of search waivers in academic hiring at UC. Senate reviewers expressed general support for the Principles, but also requested additional information and clarification about some aspects of the document.

Vice Provost Carlson noted that the use of waivers to forego open academic searches is allowed by law and University policy in rare cases under certain circumstances. Waivers can help UC recruit a high-quality academic workforce and advance the University's diversity and equity goals. However, waivers may also introduce confusion into the hiring process and can carry the potential for abuse. The proposed Guidelines were developed by the UC Recruit Governance Board, which oversees UC's online academic recruitment system. They grew out of the recent Office of Federal Contract Compliance Programs (OFCCP) audits, which surfaced concerns about the inconsistency of processes and record-keeping across UC campuses, and made clear that the University needs more transparent standards to guide academic searches. The Guiding Principles are intended to increase the clarity, transparency, and consistency of search processes, help prevent open recruitments from being arbitrarily bypassed or undermined, and support excellence, fairness, and diversity. A recent enhancement to UC Recruit makes it possible to process waivers electronically, which will enable better systemwide data reporting on the use of waivers. The Principles are meant as guidelines rather than policy; campuses will be allowed to set additional restrictions on the use of waivers.

Discussion: Council members agreed that campuses will benefit from the additional clarity provided in the principles about the acceptable use of search waivers. However, it was unclear to some members whether the document should be viewed as policy or as best practices. They suggested that the document be given a new title to clarify that it is not intended as policy. Council members also expressed support for enhancing UC Recruit to enable better systemwide data gathering on the use of waivers and offers accepted through waivers. There was also support for adding more explicit language indicating that Target of Excellence waivers may be used to address a lack of diversity. It was noted that women and URM are disproportionately concentrated in non-Senate series that do not require a search; a waiver could be one mechanism to help move some of them into a Senate series.

IV. Executive Session

V. Consultation with Senior Managers

- **Janet Napolitano, President**
- **Aimée Dorr, Provost & Executive Vice President, Acad. Affairs**
- **Nathan Brostrom, Executive Vice President & Chief Financial Officer**
- **Debora Obley, Associate Vice President for Budget & Capital Resources**

President Napolitano

Principles Against Intolerance: The President thanked the Academic Senate for proposing an amendment to the draft Statement of Principles Against Intolerance that helped resolve a conflation of anti-Semitism and anti-Zionism in the Statement.

Retirement Options: The President noted that the pension tier approved by the Regents is a good outcome considering the fiscal constraints imposed by the PEPRA cap. It will protect UC's excellence and financial health. She said she heard the voices calling on the University to reject the cap, but noted that doing so would have meant unravelling the budget agreement with the state that provides UC with much needed revenue to support the academic enterprise and UCRP. She said the most difficult decision was to decouple faculty and staff in the DC supplement benefit; however, she recognized that a DC contribution on a first day/first dollar basis is essential for maintaining UC's competitiveness for faculty, for whom the University competes in a global market. UC values staff and will still be offering them more competitive benefits compared to other state employees. The President also stated that there are other ways to support competitive compensation beyond benefits, and a great university must offer its faculty a competitive salary.

Sexual Violence/Harassment: Recent events show that the issue of sexual violence and harassment at UC will require significant attention until campuses and the general public are confident that substantiated acts carry real consequences and the University has clear and fair processes for determining policy violations. Following the release in January of a new UC systemwide framework for the investigation, adjudication, and sanction of sexual misconduct cases involving students, the President empaneled a Joint Committee to examine appropriate policies and processes for cases involving faculty. She has now asked a third committee to examine policies and processes for staff, including post-docs as respondents, and report to her by August.

Legislation: Assembly Member Irwin is carrying AB 2664, a UC-sponsored bill that would allocate \$22 million annually for three years to expand infrastructure that supports innovation and entrepreneurship across the ten campuses and LBNL. UC is also working with Senate President pro Tem Kevin de Leon on legislation that would provide additional funding to support undergraduate and graduate student enrollment.

Budget Audit: The long-expected audit of UC budget issues was released yesterday. The audit was intended to criticize several UC budget decisions, including one to increase nonresident enrollment in response to the state budget cuts of the Great Recession. The report is sensationalistic, biased, and inaccurate. It does a tremendous disservice to one of the country's great public universities. The President's [response](#) to the auditor and a new University report, [*Straight Talk on Hot-Button Issues*](#), counter assertions made in the report.

Faculty Salaries: Last year, the President decided to split a 3% pool of funding for faculty salary increases into separate and equal portions—1.5% as an across-the-board increase to total salary

and 1.5% to several purposes made at the discretion of campus chancellors, including equity and exceptional merit. The chancellors support a similar plan for 2016-17.

Discussion: A Council member asked the President about a new group she is forming to resolve sexual misconduct grievances against senior administrators, and noted that some administrators also hold a faculty position.

The President stated that recent events have made clear that the sanctions imposed on some administrators have not been commensurate with substantiated patterns of behavior. A Systemwide Peer Review Committee will review and approve all proposed sanctions for any senior leader found to have violated UC SVHP policy. The Committee is chaired by Chief Compliance and Audit Officer Sheryl Vacca and UCOP Deputy General Counsel Allison Woodall, and includes a high-level administrator from each campus. The idea is for the Committee to review and approve, reject, or amend, any proposed sanction made against a Senior Administrator in response to a substantiated complaint. If the administrator also has a faculty appointment, one possible sanction could be the removal of the administrative appointment and referral to P&T.

A Council member asked whether the Legislature has real authority to impose a cap on nonresident enrollment in the context of UC's constitutional autonomy. The President responded that the University sees many opportunities to avoid or amend potentially harmful legislation before engaging in a battle over UC's autonomy.

Provost Dorr

Budget Framework Initiative: Several UCOP senior administrators will meet with staff from the Department of Finance and the Governor's office next week to report on UC's progress implementing the programmatic items in the Budget Framework Initiative. Several initiatives, such as the identification of transfer pathways for the top 20 majors and the new pension tier aligned with the PEPPRA cap, have been completed. In addition, all campuses have identified three-year degree pathways for 10 of the 15 most popular majors, and all have met the 40% benchmark for progress in the initiative to reduce the number of upper division courses required for a major to no more than 45 quarter units for the top 75% of majors. Other initiatives are ongoing, including the enhanced use of summer session, the piloting of activity-based costing, the use of adaptive learning technology, and the use of alternative credit.

Faculty Salary Plan: UCOP is finalizing a 2015-16 salary plan for faculty. It largely replicates last year's plan, which applied half of a 3% increase to the general salary scales and allowed chancellors to use half to address issues of equity, inversion, compression, and exceptional merit. Like last year, campuses will be expected to consult with the Senate about implementation of the discretionary increases, and to report some minimum information about the chancellor's decisions, including total dollars used and number of faculty. In the past, campuses have interpreted "equity" broadly – it has meant between individuals as well as across campuses.

A Council member noted that it would be helpful to have more guidance about how the salary increase should apply to faculty on the Health Sciences Compensation Plan.

CFO Brostrom

The Director of the California Department of Finance is satisfied with UC's new pension tier, and the University will be working to ensure that the state continues a funding commitment to UCRP. The state audit has been met with a great deal of shock and consternation. UC is particularly concerned about the auditor's claims that nonresidents displace residents and that UC has a lower admission standard for nonresidents. UC argues that the main drivers of resident enrollment are the California Master Plan and state funding, and that UC is meeting its Master Plan obligation to all state-funded California residents. UC also notes that nonresident tuition funds the enrollment of many more residents than would otherwise be possible; that campuses evaluate applicants on 14 comprehensive review factors, not just GPA and SAT; that UC policy has always favored residents; and that UC enrolled thousands of unfunded residents throughout the budget crisis, in contrast to CSU, which cut enrollment. The audit also criticizes UC for rebenching with state funds only, rather than including nonresident tuition and other sources.

The CFO and his staff recently completed a housing tour of campuses to assess student housing needs. They will be looking at new revenue models and other strategies to address the additional needs expected as a result of the enrollment agreement.

VI. Executive Session: Nomination of 2016-17 Vice Chair

ACTION: Council selected Professor Shane White of UC Los Angeles as its candidate for 2016-17 Vice Chair. The nomination will be forwarded to the Assembly of the Academic Senate for consideration at its April 13 meeting.

VII. Executive Sessions: Selection of Nominee for 2016 Oliver Johnson Award

ACTION: Council voted to name Professor Robert Anderson of UC Berkeley and Professor Katja Lindenberg of UC San Diego recipients of the 2016 Oliver Johnson Award. Their names will be forwarded to the Assembly for ratification on April 13.

VIII. Cybersecurity Issues Update

- **Tom Andriola, Vice President and Chief Information Officer**
- **Michael Troncoso, Chief Counsel, UCSC**
- **Shane McGee, Chief Privacy Officer, FireEye**

The University's open environment and distributed structure present unique challenges for network security and data protection. The CIO's goal is to build a sustainable security program that balances the need to protect sensitive data against the need to achieve the University's mission. Before the massive data breach at UCLA last year, there was an under-appreciation of risk at UC. Immediately following the breach, the mode changed to one of ultra-urgency. Now, UC is engaged in an informed decision-making process about actions needed to minimize the risk of future breaches, and advanced persistent threats originating from nation states.

After an RFP process, UC selected FireEye, an integrated solution suite designed to detect and respond to cybersecurity threats. FireEye is meant to complement current protections at campus and health systems. Its multiple layers provide "defense in depth." The Network Security (NX) layer deploys hardware at the border of the network to detect malicious traffic, based on computer behavior, not human behavior. The Endpoint security (HX) layer is software deployed

on individual devices to examine traffic within the University's network and detect infection. Finally, the Network Forensics (PX) platform enables rapid response and investigation by capturing all traffic for a limited time to reconstruct the breach.

The Office of General Counsel analyzed FireEye's three layers against UC's Electronic Communications Policy (ECP), and concluded that FireEye can be deployed in a manner consistent with the policy. The ECP enshrines privacy protections for any employee using University networks for electronic communication, with important exceptions. One is the System Monitoring Provision, which allows for routine monitoring to maintain basic network integrity, based on a "least invasive degree" of inspection principle. The second is the Security Practices Provision, which allows inspection of traffic to confirm malicious activity, guided by a "least perusal of content" principle. When such activity is detected, policy permits the University to take steps to address malicious activity. The ECP also requires a meaningful notice to employees if information is accessed for a security-based reason.

Each campus may adopt the additional capabilities of FireEye based on their security needs and priorities, but UCOP will not mandate that they do so. (All locations will be required to maintain the systemwide threat detection layer.) Campus decisions will be made in shared governance consultation with faculty. UCOP will help coordinate the roll-out of tools and ensure that locations have access to technologies and information they need to make decisions. UCOP will provide additional resources to campuses for implementation as needed.

IX. Update on Revised Joint Committee Report

○ Sheryl Vacca, Senior Vice President, Chief Compliance and Audit Office

The Joint Committee is revising its report and recommendations to reflect comments received from the [Academic Senate](#) and other agencies. The final report is due to the President on April 4. The Committee is adjusting to several high-profile incidents of sexual harassment at UC campuses that have made headlines, but it is expected to stand by its previous recommendations that existing policies are fundamentally sound but need to be better known and understood by faculty and administrators. The final report will recommend a closer examination of the confidential processes not covered by systemwide policies, such as those performed in the Title IX office, as well as those that follow in the chancellor's office that may lead to an early resolution. The final report will also further clarify the "three-year rule," and strengthen some of the current recommendations, including the recommendation for a systemwide Senate-Title IX coordination procedure.

X. New Business

A letter from UCFW outlines concerns about the administration of future salary increases for faculty. It asks the administration to recognize that a plan being contemplated for staff based purely on an annual review of merit is not appropriate for faculty, whose position on the salary scales is linked to the faculty merit review process. UCFW notes that COLA-like range adjustments are, for faculty, a form of merit increases, because they preserve the value of a faculty member's salary that was based on merit earned in the University's rank, step, and salary scale system. The University should preserve the link between the scales and the rank and step system by funding range adjustments that raise the scales. Chair Hare noted that the President

has not made a decision about a salary program for faculty in 2016-17. The Senate leadership advised her that last year's faculty salary plan did not work optimally.

Meeting adjourned at 4:00 pm

Minutes prepared by Michael LaBriola, Principal Committee Analyst

Attest: Dan Hare, Academic Council Chair