

## ACADEMIC COUNCIL

## Minutes of Meeting

June 22, 2016

**I. Consent Calendar**

1. Today's agenda items and their priority
2. Draft Council minutes of May 25, 2016

**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**

UCOPE Update on Hiring New AWPE Chair: In July 2015, Council endorsed a University Committee on Preparatory Education (UCOPE) plan to replace the longtime chair of the Analytical Writing Placement Exam (AWPE) Committee following his retirement from UC. The plan called for the individual to continue as AWPE chair for two years while UCOPE recruited a successor. UCOPE now proposes that a committee of Writing Program Directors and administrators from the Office of Student Affairs lead the search and vet candidates for UCOPE's review.

Update on Joint Committee: A June 10 meeting at UCOP brought together a group of Title IX officers, Vice Provosts for Academic Personnel, and Senate representatives to discuss the President's request for additional recommendations to improve policies and practices around sexual misconduct cases involving UC faculty. The President wants to find a way to merge parallel investigations and reduce the total timeframe for investigating and adjudicating cases to five months. The consensus of the group was that no single merged investigation is likely to be sufficient, given the variation in the complexity of cases and investigation processes across campuses. It also agreed that a five-month timeframe is probably unrealistic given the lack of sufficient staffing and resources in Title IX and Academic Personnel offices. The group will recommend that UC establish a reasonable timeline grounded in experience and best practice.

Vice President Searches: A UC search committee has concluded second round interviews for the Vice President for Research and Graduate Studies position. Interviews are just beginning for the Vice President for Student Affairs. Outcomes from both searches are expected by the end of the summer.

ICAS Meeting: The June 2 ICAS meeting at UCOP featured discussions with State Governmental Relations leaders from each of the three higher education segments on the status of budget negotiations and proposed legislation affecting the segments.

**III. Proposed Changes to Regents Policy 7707, Senior Management Group Outside Professional Activities**

The Regents are considering policy changes that would limit members of the Senior Management Group (SMG) to service on two outside for-profit boards; require SMG members to provide additional justification about how the proposed outside professional activity benefits UC; and add an additional, higher-level approval for the proposed activities. The Regents are expected to act on the changes in July. It has been noted that only 22 UC SMG members currently sit on for-profit boards.

A Council member noted that the policy should articulate more clearly the implicit expectation that UCOP will act on an SMG member's request to add an outside professional activity within one month of the request. Council also reviewed a letter from UCFW stating that voluntary advisory positions should not be considered against the total number of permitted outside activities, because such activities can provide academic benefits to SMG members who also hold faculty positions and generate positive exposure for the University.

**ACTION: Chair Hare will communicate Council's comments to the chair of the Committee on Compensation.**

#### **IV. Draft Letter on Systemwide Review of Proposed Revised APM 278, 210-6, and 279; New APM 350; and APM 112**

Council reviewed a draft letter summarizing comments received from Senate divisions and systemwide committees in response to proposed revisions to APM policies defining the duties and responsibilities of the non-Senate Health Sciences Clinical Professor (APM 278) and community-based Volunteer Clinical Professor (APM 279) titles, the appointment and advancement criteria for Health Sciences Clinical Professors (APM 210-6); and a new policy covering non-faculty Clinical Associates (APM 350).

Council members noted that as the UC medical centers expand their networks and affiliations with providers in non-academic hospitals, they are encompassing more non-faculty clinicians. The new APM 350 covering Clinical Associates will be helpful in addressing non-faculty academic appointees who perform clinical work at a UC affiliate. The proposed changes to APM 278 and 279, however, generated substantial concerns, mostly related to the addition of a "research and/ creative activities" requirement to the criteria for appointment and advancement in APM 278. Several reviewers noted that the criteria are vaguely defined. Others objected to the addition of the criteria, noting that the new requirements are inappropriate for Clinical Faculty who have traditionally been appointed and promoted based on their teaching and clinical work alone. Council members also noted concern about the plan to grandfather existing Health Sciences Clinical Professors into the current APM definitions, but to expect new faculty to work under the revised criteria. They noted that maintaining separate criteria for faculty serving in the same series will burden reviewing committees and confuse faculty. Finally, it was noted that the Work Group that developed the proposed revisions included no faculty representation. Future efforts to refine the APMs should solicit input from faculty who understand current practices and have insight into the consequences of changes to the criteria.

**ACTION: The draft letter will be revised to reflect Council's endorsement of APM 350 and request additional revisions to APM 278 and 279 to address substantial concerns.**

#### **V. Board of Regents Restructure and Bylaws Revision**

- **Clare Sheridan, Regents Analyst**

Council discussed proposed changes to the Board of Regents governing structure and documents. As part of the changes, the Regents will move provisions in the current Standing Orders to the Bylaws, Policies, Committee Charters, and/or UC administrative policies. Provisions related to the organization, duties, and powers of the Senate will move from the Standing Orders to a new set of Bylaws. The Regents office provided Council with a revised copy of the concordance table for the changes to Senate-related Standing Orders and Bylaws, and a redline version of the new Bylaws.

It was noted that Standing Orders and Policies can be changed with a simple majority vote, while Bylaw changes require a two-thirds vote. The Senate is not currently recognized in the Bylaws, which represent a higher, more permanent constitutional policy bar, and are the appropriate place to recognize the Senate's participation in University governance.

Council members noted appreciation for the efforts of the Regents office to remove redundant language and elevate the Senate-related Standing Orders to Bylaws. Members also wanted to ensure that nothing would be lost in the revisions related to the Senate's delegated authority over academic matters. It was noted that Bylaw 40.2 gives the Senate broad and sweeping authority to organize itself and advise the President and Regents on a wide range of topics. It was also noted that the Senate has the delegated authority over the criteria for admissions and the conferral of certificates and degrees, but the Regents maintain plenary authority over the establishment or elimination of colleges, schools, graduate divisions and organized multi-campus research units.

Analyst Sheridan invited Council members to submit additional questions or suggestions to her or to Senate Chair Hare.

## **VI. Consultation with Senior Managers**

- **Aimée Dorr, Provost & Executive Vice President, Academic Affairs**
- **Debora Obley, Associate Vice President for Budget & Capital Resources**

Budget Update: The Legislature approved a 2016-17 budget for the University that includes a 4% base budget adjustment; \$35 million for deferred maintenance; the second installment of Proposition 2 funding for UCRP; \$20 million in one-time funding to support student academic success for disadvantaged students, \$22 million for the President's Innovation and Entrepreneurship Initiative; \$2 million to expand faculty diversity, and \$4 million for the UC Scout program that expands access to "a-g" coursework at under-resourced high schools. The budget also funds specific research projects related to firearms, transportation, and precision medicine. It does not include UC's \$6 million request for graduate student enrollment.

In addition, the budget provides UC with \$18.5 million in new funding to expand California undergraduate resident enrollment by 2,500 students in the 2017-18 academic year. Helpfully, the enrollment funding will be provided in advance, but at a \$7,400 per student marginal cost rate, well short of the \$10,000 rate used in the past. The budget also asks the Regents to adopt a policy cap on nonresident enrollment (without dictating what form that policy must take).

The budget includes new reporting requirements related to the outside professional activities of senior managers, financial sustainability, and faculty diversity. It also asks UC for a plan to

address a Public Policy Institute of California projection that the state will need one million additional bachelor's degrees by 2030.

- Council members noted that campuses will struggle to accommodate the new enrollments without funding for new graduate Teaching Assistants. UC officials should not downplay or obscure the negative effects of the enrollment mandate. They should continue to seek new funding for graduate education and basic research by emphasizing how UC research functions as an economic engine for the state.

Campus Presentations to the Regents: At the May Regents meeting, the Regents requested a series of presentations from each campus about its finances, student performance, and diversity. UCSF, UCSC, and UCM will participate in the first group of presentations in July. The chancellors will lead the presentations with the help of Provost Dorr, CFO Brostrom, and campus provosts. UCOP is developing a standard template for the presentations. It includes a summary of financial data (cash and investments, capital assets, endowments, debt, revenue and expenses, and projections); data on student outcomes (graduation, time-to-degree, and first-year retention rates for freshmen and transfers, along with doctoral completion rates); and data on the racial, ethnic, and gender diversity of different academic populations and ladder-rank faculty. Campuses will also discuss strengths and opportunities in each area.

Nonresident Enrollment: In July, the Regents are expected to adopt a policy cap on nonresident enrollment. It would require the three UC campuses with nonresident enrollment above 20% to not exceed their current level, and allow campuses with lower enrollments to rise to a level comparable to the three campuses. The chancellors are opposed to the idea of “socializing” nonresident tuition revenue across the campuses.

- Council members suggested that campus presentations include statistics on the doctoral graduation rates of UC's comparison institutions and on UC's student-faculty ratio over time. In addition, with regard to nonresident enrollment, UC officials should emphasize the link between declining state support for residents and the use of nonresident tuition to address shortfalls in state support. Officials should advocate that any reduction of nonresident enrollment be met with an equivalent backfill increase in state funding to address past cuts.

## **VII. Resolutions on Divestment from Fossil Fuels**

Council discussed resolutions passed by the Santa Cruz and San Diego divisions in support of divestment from fossil fuels and advice from the University Committee on Rules and Jurisdiction (UCRJ) about the Senate Memorial process. The Santa Cruz resolution asks the Assembly to ask all Senate divisions to discuss and vote on a Memorial to the Regents to divest from companies doing business in fossil fuels. The San Diego resolution asks the Regents to instruct the Chief Investment Officer to divest from fossil fuels. UCRJ confirmed that neither resolution meets the requirements for a Memorial to the Regents outlined in [Senate Bylaw 90](#).

It was noted that the two most recent Senate Memorials were [Increased State Support for the University](#) (2012) and [Non-resident Tuition for Graduate Students](#) (2006).

**ACTION:** Council agreed that UCSD and UCSC should work together to consolidate the language in the two resolutions for further discussion in the fall.

## **VIII. UCFW Issues**

### **o Calvin Moore, UCFW Chair**

Proposed Revisions to Elective Disability Insurance Program: Council reviewed a UCFW letter expressing concern about a proposal from the Office of Human Resources to change the Elective Disability Insurance Program policy from an “own occupation” standard to an “any occupation” standard. Under this stricter definition of disability, employees would no longer qualify for continued benefits after two years if they could perform “any” occupation, rather than their particular occupation. UCFW presumes that the “any” standard would be based more narrowly on one’s education, experience, age, and mental capacity, rather than “any possible” occupation, but is concerned that this policy should not be used to deny benefits to a faculty member who is unable to perform teaching and scholarship as a result of a mental disability, if they can perform less mentally demanding work. UCFW is requesting clarification about the extent to which the provisions of the policy would apply to faculty suffering a long-term disability.

**ACTION: Council agreed to send the Vice President for Human Resources a letter supporting UCFW’s concerns.**

2016 Pension Tier Elections Guidelines and Communications: UCFW has noted that new employees hired under the 2016 Tier will have a 90-day window to choose between the Defined Benefit plan and the stand-alone Defined Contribution plan. However, the window is slated to begin on the date of hire, not necessarily the first day of work on campus, which UCFW believes provides too little time for new faculty members facing a range of choices and distractions during their transition to UC. UCFW is also concerned that faculty will not accrue service credit until they make an election, and that their initial choice during the window will be permanent. Faculty without an existing knowledge of the trade-offs and subtleties of the pension options will need sufficient time to ruminate. UCFW recommends that for faculty, the 90-day election window begin on the first day of the first term following hire; that a safe harbor account be established to ensure that faculty do not lose service credit and interest income during the pre-election period, and that new faculty hires be allowed to change their election during the 90-day window.

**ACTION: Council agreed to send the Vice President for Human Resources a letter supporting UCFW’s concerns.**

## **IX. Electronic Communications Policy**

### **o Michael Troncoso, Office of General Counsel**

Managing Counsel Troncoso provided an overview of UC policy on non-consensual access to UC employees’ electronic communications permitted during an internal investigation, in the context of UC’s internal audit function, the [Electronic Communications Policy](#) (ECP), and state and federal law. He noted that the Regents adopted an Internal Audit Management Charter in 1995 authorizing Internal Audit to have “full, free, and unrestricted” access to information, in accordance with state and federal law. The Regents [re-adopted the Charter](#) in March 2004. The Charter sits above the ECP, a presidential policy adopted in 2005, and the Charter is referenced in a footnote to the ECP.

Managing Counsel Troncoso noted that the ECP articulates principles of free speech, academic freedom, and shared governance, and presumes a broad right to privacy in electronic communications. However, these principles and rights exist within the contours of the Charter and state and federal law, and have limitations based on circumstances that include substantiated allegations of misconduct or serious violations of University policy. He said UC is also bound by state and federal laws. These laws assume that as a public employer, UC's employee records are subject to public disclosure, with substantial exceptions including drafts, and "deliberative process" documents. The law requires a public employer to have a work-related justification, developed in advance, to access employees' records without consent, and it requires employers to use measures to access records that are directly related to the justification and relevant to the scope of the investigation. Finally, the employer cannot be "excessively intrusive" in the scope of access.

Managing Counsel Troncoso noted that the internal audit function is a broad authority aligned around ensuring compliance with state and federal law. Not all investigations are conducted according to the audit function. He is aware of no privilege that would shield Senate communications from discovery.

## **X. Executive Session**

## **XI. Future of the Academic Council Special Committee on Agriculture and Natural Resources**

Council reviewed a proposal to end ACSCANR's status as a Special Committee of the Academic Council, and charge a UCPB Task Force to take the lead for the Senate on issues concerning the ANR/AES budget.

Chair Hare noted that ACSCANR is not functioning well, in part because its membership structure provides for limited subject matter expertise and continuity. The proposed UCPB Task Force would consist of ten Senate representatives, including six at-large members serving one-year renewable terms, chosen for their subject matter expertise in agricultural and natural science research and extension. The Task Force would also include four ex-officio members: the UCPB chair and vice chair and Academic Council chair and vice chair. The proposed membership model is based on the successful UCFW Task Forces that depend on subject matter experts who serve for more than two years and provide the Tasks Forces with necessary expertise and continuity.

It was noted that the Task Force will be affiliated with UCPB, but will look beyond financial issues. UCORP Chair Habicht Mauche noted that UCORP is not included in the new Task Force structure, but reserves the right to continue to consult with ANR on research issues.

**ACTION: Council will revisit the proposal at the July meeting.**

-----  
Meeting adjourned at 4:00 pm  
Minutes prepared by Michael LaBriola, Principal Committee Analyst  
Attest: Dan Hare, Academic Council Chair