

## UNIVERSITY COMMITTEE ON ACADEMIC PERSONNEL

## VIDEOCONFERENCE MINUTES

WEDNESDAY, OCTOBER 13, 2021

**Attending:** John Kuriyan, Chair (UCB), Francis Dunn, Vice Chair (UCSB), Rhonda Righter (UCB), Lisa Tell (UCD), Michelle Garfinkel (UCI), Catia Sternini (UCLA), Ramesh Balasubramaniam (UCM), Deborah Wong (UCR), Steve Briggs (UCSD), Meg Wallhagen (UCSF), Ruth Finkelstein (UCSB), Stefano Profumo (UCSC), Andrew Dickson (Chair, UCRJ), Susan Carlson (Vice Provost, Academic Personnel and Programs (APP)), Amy K. Lee (Associate Vice Provost for Academic Personnel and Programs, APP), Kimberly Grant (Director, Academic Policy and Compensation, APP), Robert Horwitz (Chair, Academic Senate), Susan Cochran (Vice Chair, Academic Senate), Brenda Abrams (Principal Policy Analyst, Academic Senate)

**I. Welcome and Introductions**

Chair Kuriyan welcomed members to the first UCAP meeting of the 2021-2022 academic year. The committee will be asked by Academic Council to examine various issues and UCAP may also decide to take up other matters proactively. The committee's April 2021 guidance to campus CAPs, departments, and faculty around the preparation and review of academic personnel files impacted by the COVID-19 pandemic served as a central reference document for the workgroup on mitigating the impacts of COVID-19. One question is how CAPs will make assessments of achievement relative to opportunity.

Members were reminded about the confidentiality of the committee's discussions and the chair and analyst should be asked if there is any uncertainty about what can be shared with their CAPs. The analyst reported that it is possible UCAP will be able to meet in-person at the Office of the President (UCOP) on January 12<sup>th</sup> and noted that appointments to UCAP are from September 1<sup>st</sup> to August 31<sup>st</sup>. The analyst also indicated that divisional CAP analysts will be asked to complete the triennial CAP Practices Survey by April 2022 and the results can be discussed by the committee in May.

**II. Consultation with the Academic Senate Office**

- *Robert Horwitz, Chair, Academic Senate*
- *Susan Cochran, Vice Chair, Academic Senate*

Chair Horwitz shared that the Smarter Balanced Study Group sent President Drake its recommendation about the use of the Smarter Balanced Assessment for admissions and the Regents will discuss this topic in November. The workgroup on mitigating the impacts of COVID-19 on faculty is finishing up its work and a report is expected soon. The report will include recommendations on how to restore the research enterprise and how to get money back to departments that gave teaching releases to faculty affected by COVID-19.

During the most recent meeting of the Board of Regents, Chair Horwitz discussed preserving the excellence of UC and called attention to lagging faculty salaries as well as the problems of the financial accounting systems which were supposed to give faculty access to data on their grants. The chair also reported on the theft of faculty intellectual property by third-party student tutoring websites and their facilitation of academic integrity violations. Another topic was the importance of graduate student education which dovetailed with remarks made by Board Chair Estolano to the legislature on this subject.

The Regents approved UCSC's long range development plan and the initial plan for UCB to build student housing on the People's Park site. Based on an inventory by UCOP, about 500 buildings across the campuses need retrofitting work at an estimated cost of \$20B, of which only 10% has been allocated. Campuses with a high percentage of non-resident students (UCLA, UCB and UCSD) will need to reduce the enrollment of these students to under the 18% cap within five years. Other topics under discussion by the Regents included challenges related to contracting with women and minority owned businesses as a result of Senate Bill 820; stalled negotiations with Unit 18 Lecturers; Assembly Bill (AB) 1550 which would allow faculty in a bargaining unit to remain eligible for union representation if UC moves their positions into the Senate; and the state's desire to increase enrollment at UC by 20k students by 2030 without adding a new campus.

Many Regents think UC leaves money on the table when it comes to faculty and graduate students engaged in innovative research that could be patented and commercialized. The co-chairs of the Regents' Special Committee on Innovation and Entrepreneurship researched how other universities handle patents and produced a report citing bureaucracy at UCOP as a problem. The report recommends devolving authority over patents to the campuses and creating a new patent tracking system. The Senate is asked to consider giving credit during merit and promotion to faculty who filed patents and engaged in startup activities, and to make it easier for faculty to take leave to devote time to these activities.

UCAP considered this issue in 2014 and divisional CAPs agreed that the Academic Personnel Manual (APM) allows faculty to receive credit for patents and startups. However, the Regents Special Committee proposes that the APM be changed to facilitate greater recognition for these activities. Chair Horwitz has pointed out to the Regents that CAPs deliberate about whether patents are considered a separate scholarly activity or a follow-on from a publication. Another problem is that allowing a faculty member to take leave with limited notice makes it difficult for a department chair to offer a coherent curriculum. The Regents want to move this along quickly, and Chair Horwitz has committed to asking UCAP to complete its examination of this issue this academic year. Senate leadership will meet with Chair Kuriyan and the chair of the Committee on Research Policy to discuss a partnership between the two committees on this effort.

**Discussion:** While it has been true that faculty could either be a union member or a member of the Academic Senate but not both, Chair Horwitz indicated this is changing because of AB 1550 and due to changes several years ago that allowed part-time Lecturers with Security of Employment (LSOEs) to be members of the Senate. This is a threat to and complicates shared governance which would diminish the Senate's power in its dealings with the administration.

How entrepreneurship is viewed might be discipline-specific. CAPs acknowledge that patents are a positive, but do not place extra weight on them. Patents are often considered in tandem with publications. The question of whether UC is less aggressive than its peer institutions in the area of entrepreneurship and innovation is an important one. The problem may not be the APM as much as that department standards fail to recognize the various activities of entrepreneurship as part of the criteria for a merit or acceleration. Additionally, since most faculty members are not involved with these types of activities, work on patents and startups may be viewed as a negative which takes away from the traditional mission of UC. Chair Horwitz will send a written request asking UCAP to consider the recommendations in the Regents' report.

### **III. Consultation with the Office of the President**

- *Susan Carlson, Vice Provost, [Academic Personnel and Programs](#)*
- *Amy K. Lee, Associate Vice Provost for Academic Personnel and Programs*

- *Kimberly Grant, Director, Academic Policy and Compensation, Academic Personnel and Programs*

Vice Provost Carlson provided an overview of Academic Personnel and Program's responsibilities, including its stewardship of the APM. Academic Personnel convenes workgroups to study complicated policy issues; deals with academic labor contract issues including employment, compensation, and discipline; and handles faculty recruitment, employment and compensation data. Most of the policies have some connection to CAPs and UCAP, and Academic Personnel solicits their input through Council. Academic Personnel will soon send out for systemwide review proposed edits to APMs 025 and 671, UC's conflict of interest policies. Last spring, an internal audit directed UCOP to make revisions related to foreign influence. The revisions propose specific language asking faculty to report on engagement with foreign entities in Category 1 and Category 2, and propose expanding who is covered under these policies. The audit was concerned that UC had many researchers who were not reporting possible affiliations outside of the country.

Academic Personnel received UCAP's recommendations about emphasizing mentoring in APM 210 and campus academic personnel administrators have been asked for feedback on the proposed changes before the revisions are distributed for systemwide review. In response to recommendations from the Regents' Special Committee on Innovation and Entrepreneurship, proposed changes to the leave without pay policies, APM 759, have been sent out for systemwide review. The proposed new language states that good cause for leave without pay may include leaves for innovation and entrepreneurship activities, among other things. The Regents have also tasked Academic Personnel with considering revisions to the research section of APM 210 to make it explicit that faculty should be rewarded for activity in the realm of entrepreneurship and technology transfer. Academic Personnel has not started working on language for APM 210 yet and Vice Provost Carlson indicated that faculty should be central to any revisions of this policy.

Academic Personnel is working on a presidential policy on abusive conduct and bullying that will cover all employees, including faculty and academic appointees. The policy will spell out what abusive conduct and bullying are and explain how to file complaints, but it will not alter the current process for handling complaints against faculty. This proposed policy will be sent out for review in late fall. A joint administrative-Senate group is beginning to work on a presidential policy on anti-discrimination applicable to students and employees. This year the Advancing Faculty Diversity Program issued awards for campus recruitment projects and for projects focusing on retention and academic climate. The Vice Provost reported that UC has partnered with Harvard's Collaborative on Academic Careers in Higher Education since 2016 to conduct annual surveys on faculty exit and retention, and data from the last two years will be shared with UCAP next year.

**Discussion:** One question is whether letters for faculty advancements and promotions that have already gone forward can be modified based on new recommendations from the workgroup on mitigating the impact of COVID-19 or Academic Personnel. Vice Provost Carlson indicated that most campuses have been thinking about the impact of the pandemic and some may have already adopted language to include in letters, and Academic Personnel would be hesitant about interfering with what has already occurred on a campus.

A member asked if another extension of the clock due to COVID-19 is under consideration since challenges are ongoing, especially with research. The Vice Provost indicated that a faculty member can request a two-year extension of the clock from their campus administration if they have appropriate reasons. Academic Personnel at UCOP gets involved with requests for a third year, which is an exception to policy that must be approved by Provost Michael Brown. UCOP has

received many more of these requests in the last 18 months than usual and all of them have been approved, including some where two of the three years were covered exceptions. UCOP has made it easier to request the third year and streamlined the process. Vice Provost Carlson explained that any additional extension of the tenure clock beyond a third year would require Regents' approval, a long, complex process. Instead, UCAP should think about the achievement relative to opportunity principle which focuses on the quality of what people have been able to do.

#### **IV. Systemwide Senate Bylaw 55 and Teaching Professors/Lecturers with Security of Employment (LSOEs) Serving on Committees on Academic Personnel**

- *Andrew Dickson, Chair, University Committee on Rules and Jurisdiction (UCRJ)*

Last year, UCSD asked UCRJ about the role of Teaching Professors/LSOEs on the divisional CAP. In principle, a department can agree that such individuals would be prepared to speak to and vote on files for tenured ladder-rank faculty (LRF). Many departments do not give LSOEs a vote, and at the CAP level, this would involve doing something other departments have chosen not to do. It was not clear to UCRJ if people from one series that bestows Senate membership, such as LSOEs, have rights from Senate bylaws to vote on personnel issues associated with other Senate series. UCRJ noted there are a variety of conflicting issues that could potentially be worked out, and Chair Dickson indicated that questions about the distinction between various series that are nevertheless Senate members have come up before. In response to UCSD's request for clarity, UCRJ opined that there is no way to agree that this could happen based on its reading of Senate Bylaw (SB) 55 and UCSD bylaws.

Chair Kuriyan expressed uncertainty about whether it is UCAP's place to opine on this matter, and Chair Dickson recommends that the committee can opine on the role of a LSOE on a divisional CAP. Chair Dickson commented that the unfortunate part of this matter is the distinction which starts to arise in the Regents' bylaws where tenured LRF and LSOEs are treated identically with regards to dismissal but then treated differently in other respects. This may be an issue that will need to be cleaned up at the regental level, and SB 55 should be clearer as well.

**Discussion:** UCI's CAP has a LSOE with full voting rights and would not want this practice to change. At UCD, departments include LSOEs in votes and the CAP is considering adding a LSOE to its membership. This is an urgent matter for UCSC's CAP because this year the CAP and divisional Committee on Committees (COC) specifically decided to have a Teaching Professor on CAP. The arrangement at UCSC is that the Teaching Professor will vote only on files of other Teaching Professors, but will be included in discussions of all files, and this campus would like to know if the Teaching Professor should vote on LRF personnel files or should continue to be limited to voting only on the files of other Teaching Professors.

The analyst explained that the chair of UCSC's COC reached out to UCAP over the summer seeking advice before UCAP had the opportunity to discuss this matter. The executive director of the systemwide Senate office forwarded UCRJ's opinion to the analyst along with a recommendation from the executive directors of divisional Senate offices that there should be one systemwide interpretation regarding whether LSOEs should be appointed to CAPs rather than having campuses take different approaches. The analyst suggested that the UCSD representative to UCAP might check in with UCSD's Senate executive director to find out if this campus will propose a revision of SB 55. The Teaching Professor on UCI's CAP has served for three years and their feedback has been important largely because UCI has a growing number of faculty in this series, and it would be a disappointment if this had to change. Everyone on UCD's CAP votes on the files of faculty in the

Medical and Veterinary schools, and the criteria for these files is very clear. It is important for LSOEs to be able to vote since they are part of the whole campus effort.

Chair Kuriyan asked Chair Dickson to explain what would be needed if there is agreement across the campuses that Teaching Professors should be full members of CAP if appointed by COC. Chair Dickson stated that the broader question is if professors in other Senate series (such as Professors in Residence) who are not LRF and who vote on their own series are also permitted to vote more widely. In regards to the original request from UCSD, that division's bylaws require that members of the CAP are predominantly tenured faculty, and the concern is whether a person who is not tenured but has security of employment should not even be on the CAP. Chair Dickson thinks SB 55 should be more carefully scrutinized. One fundamental question is if CAPs decide who its members should be. The analyst mentioned that the executive directors seemed concerned that a faculty member might file a grievance about the outcome of a CAP's review of their file if a LSOE voted. Chair Kuriyan questioned whether UCAP has been charged to look into this issue, and the analyst explained that divisional executive directors felt UCAP should consider this matter based on UCRJ's opinion. The analyst will try to find out if UCSD will put forward a proposed revision to SB 55.

Chair Dickson stated that it is not UCRJ's place to advise UCAP on this matter, but noted that there is a potential for grievances if some CAPs are allowing LSOEs to vote on files for LRF. Chair Kuriyan indicated that a systemwide policy would be beneficial rather than having implementation that varies widely. The UCM CAP brought this matter to their divisional Council and other committees pointed out that CAP does not determine its membership and it is up to COC to consider the UCRJ ruling and decide who can be on CAP. One idea is that UCAP could send a recommendation to UCOC that it should interpret SB 55 in terms of who can serve on CAP. UCAP agreed to table the discussion until potential next steps are identified.

## **V. Mitigating the Impact of COVID-19 in File Review**

Chair Kuriyan asked members to report if they have heard about problems related to file reviews in the context of COVID-19 that need the committee's attention. The initial report from the task force on mitigating the impact of COVID-19 on faculty will be disseminated soon and a central message in the report will be that CAPs should be sympathetic to the circumstances faculty have been forced to navigate due to the pandemic.

**Discussion:** It may be difficult to assess the real longitudinal impact the pandemic has had on faculty. The UCLA CAP is asking faculty to write COVID-19 statements and these are reviewed and taken into consideration. A concern is that achievement relative to opportunity is subjective. UCAP may want to discuss problems that could arise if letters to external reviewers do not mention COVID-19. The point was made that delays in the standard publication process are making the difference between getting a promotion or not. A member asked if CAPs are attempting to put standards in place to minimize variability in how cases are reviewed. At UCD, some faculty members have been granted extra time to resubmit their packets in order to include publications. UCSF's CAP may ask a candidate for additional information along with encouraging faculty to write a COVID-19 statement. At UCR, candidates can include a COVID-19 impact statement but CAP can only recommend a half-step merit increase, which is a small salary bump.

Last year, UCSB held meetings for junior faculty and others to voice their concerns and the executive vice chancellor of academic personnel changed the letter to external reviewers to point out the impact of the pandemic. The personal statements about the impact of COVID-19 are optional but encouraged, and it has been noted that the faculty most severely impacted will have the least

amount of time to write a statement. Junior faculty are reluctant to provide a statement and there has been an effort to explain how achievement relative to opportunity will be analyzed. The UCSB CAP is also trying to determine if faculty who have been making progress but are not ready to go up for tenure could be considered for a special step that would at least give them a salary bump. CAPs are taking the high cost of living near UC campuses into consideration.

The pandemic is having differential impacts on faculty and some departments are reporting that their faculty have been impacted because of the type of research they do. Some faculty are hesitant to share confidential information about the challenges they have faced especially with their departments out of fear that it would be viewed negatively. One CAP is struggling with how it can communicate that it will be lenient while still maintaining high standards. This CAP will look at productivity and output prior to the pandemic and assess how productivity changed during the pandemic.

#### **VI. Campus Reports/Member Items**

There were no campus reports.

#### **VII. Priorities for 2021-2022 and New Business**

UCAP anticipates being charged by Chair Horwitz with discussing issues related to innovation, technology transfer and entrepreneurship. The committee has discussed the issue of publishing in open access several times in the past and the Committee on Library and Scholarly Communication (UCOLASC) has wanted UCAP to encourage junior faculty to publish in open access journals. However, UCAP agreed that a more appropriate strategy would be for UCOLASC to prepare a Frequently Asked Questions document that will educate divisional CAPs about publishing in open access formats and give the committees a better understanding about how to evaluate these publications. A UCOLASC representative might be invited to meet with UCAP when the document is ready.

Videoconference adjourned at: 1:15 PM  
Minutes prepared by: Brenda Abrams  
Attest: John Kuriyan