

UNIVERSITY COMMITTEE ON PRIVILEGE AND TENURE

Minutes of Meeting

Friday, June 3, 2022

I. Chair's Comments/Consent Calendar*Luca Ferrero, Chair***Action Taken:** *The minutes and agenda were approved 6-0-0.*

The Chair introduced Monica Lin, the new Executive Director for the systemwide Academic Senate.

II. Consultation with the Systemwide Title IX Staff*Suzanne Taylor, Systemwide Title IX Director**Isabel Dees, Systemwide Title IX Deputy Director*

Director Taylor introduced Isabel Dees, the new systemwide Deputy Director for Title IX. Ms. Dees came from UCSC, where she was AVC of Equity. Director Taylor remarked that her last day with the University will be June 30, and that Deputy Director Dees will serve as interim until a new director is hired.

Ms. Taylor said that the Department of Education anticipated release the updated Title IX regulations in April for public review and comment. That deadline was moved to May and then June. At this time, it is hoped that they will be ready in the fall. Once they are released, the Title IX Office will write a comment letter expressing UCs views about the regulations and it will either be a 30 or 60 day comment period. There is some speculation as to what may be included in the new regulations and whether they will include language about protecting transgender students and staff.

III. Simultaneous Misconduct Charges and Merit and Promotion Considerations – Workgroup Report*Julia Simon, Vice Chair*

Vice Chair Simon remarked that this policy question arose because of several cases at UCD that involved merit actions, promotion actions, and a tenure case for faculty who had concurrent disciplinary actions against them. Currently, there is no mechanism for the administration to put a pause on personnel actions, and it would be helpful to have guidelines as to how to handle cases such as these. A subcommittee of Chair Ferrero, Vice Chair Simon, and Professor Tucker worked to create language so that a personnel action could be put on hold in a no-fault way.

The Vice Chair shared the two draft proposals for addressing simultaneous merit/promotion and disciplinary cases. The committee discussed them for some time and decided in favor of Proposal A, which treats all personnel action the same way.

It was decided that the sub-group would make a few adjustments to Proposal A based on the committee discussion and that the Chair would then inform the committee about next steps.

IV. Consultation with Academic Personnel and Programs

Susan Carlson, Vice Provost, Academic Personnel and Programs

Amy K. Lee, Associate Vice Provost, Academic Personnel

AVP Lee told the committee that a second review of the abusive conduct draft policy is underway. She thanked members for their comments from the first review and said that they helped make the proposed policy much stronger. A lot of the concerns related to academic freedom have been incorporated. The effective date of the policy will be January 1.

Vice Provost Carlson said that the second policy update concerns APM 025 and APM 671. The changes that were put forward earlier in the year were in response to a directive from the internal audit report. They were concerned that the University was not doing enough to track foreign affiliations. As was the case with the abusive conduct policy, her office received substantial comment on this. As a result, her office has received an extension from internal audit to get the policy in shape. A dramatically revised policy will be circulated for review. The changes in the new draft will be a better solution to the problems that were identified in the audit. Ms. Lee said that the revisions were intended to streamline the policies as much as possible while still meeting the goals of the audit. The second systemwide review will be sent out in the fall and the hope is to extend the implementation date to the end of the year.

The Vice Provost remarked that many contracts with our academics are in negotiation now. Her office is working through a lot of important details we have been having negotiations with the post docs for over a year. Discussions with the academic researcher group are about to begin. Over 70 percent of our academics are represented now. Her office is working hard to ensure that it is dealing with appropriate issues and with appropriate groups. Ms. Lee added that the union has made it clear and there is likely to be labor activity (work stoppage) in the fall.

The committee had numerous questions for the Vice Provost and Associate Vice Provost. There was some discussion about the Senate's report on mitigating the effect of the pandemic on faculty. The Vice Provost explained that it will be up to the Office of the President and Academic Affairs to track and manage any processes that might be put in place in response to that report.

V. Consultation with the Academic Senate Leadership

Robert Horwitz, Academic Senate Chair

Academic Council Chair Horwitz shared that there had been a Regents' meeting the previous month. The governor released the May Revise, and the disappointing news was that UC was not granted the \$1.6 M in deferred maintenance and retrofitting that it had sought. However, there is some hope that it will come through in the future through the legislature. On the budget call, Chair Horwitz asked for an increase in faculty salaries, and the response from the Provost was that it is not likely. In response, Chair Horwitz and Vice Chair Cochran had a conversation with the President; there may be a chance to ask about this next year. Regent Rich Leib was elected Chair of the Board as of July 1 and Gareth Elliott was elected Vice Chair. The Regents endorsed the UCOP budget. UC is also creating a central bank to ease some of the financial pressure off the campuses when they engage in certain kinds of borrowing. In his remarks to the Regents, the Senate Chair spoke about Senate achievements, such as the Climate Memorial, the revised IGETC framework, and the very important success relative to the effort to strip CCGA authority in regard to graduate program approvals. Chair Horwitz discussed AB 928. He mentioned that the next step is to gather the relevant materials and to send them to the UC, CSU and CCC

senates for review. Assuming that all three senates approve it, it will give community college students a single pathway to CSU or UC. Some of the presentations at the Regents' meeting were about the importance on mentoring first-generation students and on the advancement of faculty diversity program. The report on mitigating COVID's impact on faculty was well-received. The Regents are concerned about cybersecurity, especially after the Accellion data breach. He noted that there is a "default mode" of blaming faculty for not really cooperating in this arena. The Regents see faculty as recalcitrant; Chair Horwitz pushed back strongly on this perception in closed session. He said that the culture of the CSOs and cybersecurity/IT departments is to not properly consult the campuses and faculty and – as a result – they impose solutions that either don't work or are, in effect, unfunded mandates. The Regents asked VP of UC Health Carrie Byington to attend to physician and clinician morale. There is some belief that clinicians should be members of the Academic Senate and that a central reason for poor morale is a clinicians feel that they are "second class citizens" because they are not part of the Senate. In response, the Senate has created an *ad hoc* Health Sciences Senate Membership work group to try to determine whether clinicians should join the Senate.

Council met last week. After division comments and Council discussion of SR 474, the ethnic studies high school course, and its alignment to UC's A-G requirements, Council sent the issue back to BOARS for further deliberation. Chair Horwitz noted that relations between BOARS and the ethnic studies faculty work group had become rather tense with the faculty work group believing BOARS is turning its back on ethnic studies. The other issue discussed in Council was the memo from UCAF on the issue of political statements on department websites. Council endorsed an amended position that departments can post political statements, however they are strongly advised to include a disclaimer that the department is not speaking on behalf of the University. Statements should also be posted without signatures to reduce coercion. Council is writing a cover letter for the UCAF memo, will be posting it to the website, and will be sending it out to the campuses. Council also talked about fully online undergraduate degrees. There is a question about student residency. This topic has been roiling for three years without resolution. One suggested option is to have online minors or majors but not full degrees. Separately, there is a problem with the Navitus pharmacy; Navitus representatives came to a meeting of the Health Care Taskforce and apologized. The Task Force is also trying to monitor the RASC. In closing, Chair Horwitz reminded the committee about Council's efforts to fight Chegg and Course Hero. He and Vice Chair Cochran we had a meeting with UC Legal and IT and discussed options. There is an effort to try to engage CSU and the CCCs to see if, together, they can bring some sort of public campaign to bear that would also be tied to litigation or a lobbying effort with the legislature. Finally, Chair Horwitz mentioned the ongoing issues with the affiliation contacts between UC and religious hospitals. Progress is being made; one affiliation is ending. He noted that the impending fall of Roe-vs-Wade is going to impact abortion services at UC hospitals. There will likely be many women coming to CA for reproductive care.

VI. For Systemwide Review

- A. Presidential Policy on Affiliations with Certain Healthcare Organizations
- B. Presidential Policy on Abusive Conduct

A. Committee members expressed concern about the potential for a restrictive or too-narrow interpretation of "emergency medical procedures" in the context of women's reproductive issues and suggested to expand the definition to "emergency or time-sensitive procedures." Members felt that - in those geographical areas where only religious hospitals are present - UC should be more pro-active in exploring the possibility of partial or concurrent affiliations of medical faculty with non-hospital organizations that might provide services that are not available or restricted in religious hospitals.

- B. The Chair remarked that the majority of the committees concerns on the first draft of the Abusive Conduct policy had been accepted. The committee discussed the new draft and expressed concerns about cyber bullying. Members also felt that the policy was lacking direction on what processes will be put in place. The committee ran short on time for discussing this item, but the Chair said he would put a response together based on the discussion that had taken place.

VII. UCSC R&J Request for Guidance

Action Requested: Provide guidance to UCRJ

Professor Guthman gave some background on the issue, and members discussed it. There was a grievance at UCSC related to a personnel letter and an assertion that that there had demonstrably false claims related to bullying behavior. The faculty member had asked to have that information removed and the chancellor rejected that request. The chancellor said it is not a personnel record until the review is complete. UCSC P&T did not agree with the chancellor's opinion; anything that goes into a file is a record. UCSC P&T contested that, and the EVC rejected their findings.

VIII. Court Ruling: The Role of P&T

Attorney Adviser Meltzer explained that there had been an update on a court decision that was made in April. There is a P&T issue that came out of UCD where the chancellor recommended a letter of censure and a reduction in pay for three months. The professor brought a lawsuit challenging the chancellor's decision and the court found in favor of the professor. The Court held that the Chancellor is not permitted under UC policy to revisit the fact-finding that was done by P&T and relied on its interpretation of APM 016 and Bylaw 336. The Court held that the Chancellor exceeded his authority by interpreting the Faculty Code of Conduct differently from the way P&T had. UC Davis is interested in the views of the Academic Senate and of UCPT on this case. The committee discussed it with considerable input from Mr. Meltzer. The Chair asked that Mr. Meltzer keep the committee apprised on the development of this case.

IX. Roundtable: Reports from the Divisions

Members reported on P&T issues from their campuses.

X. New Business

The committee adjourned at 3:52 p.m.