

DIVISIONAL COUNCIL
Minutes of Meeting
Friday, November 13, 2020

Attendees: Chair Robin DeLugan, Vice Chair LeRoy Westerling, Christopher Viney, Patti LiWang, Hrant Hratchian, Matthew Hibbing, Abbas Ghassemi, Kara McCloskey, Jesus Sandoval-Hernandez, Carolin Frank, Erin Hestir, Jessica Trounstine, and Justin Yeakel.

I. Chair's Report

A. Academic Council (10/28)

A main topic of discussion was the proposed curtailment program. UC Merced's comments were similar to those of other UC campuses. The systemwide Senate rejected the proposed program and wants to work closely with the administration to craft a solution to the long-term structural issues caused by the pandemic.

B. Deans' Council (11/10)

Senate Chair DeLugan keeps the Deans' Council updated on Divisional Council business.

C. Memo from Chancellor Muñoz – Academic Senate Funds for Campus Equity, Diversity and Inclusion Efforts

The Chancellor awarded \$100,000 to the Senate for campus equity, diversity, and inclusion efforts. After the Senate action plan on diversity, equity, and inclusion is completed in the spring, the Senate will discuss how to administer those funds provided by the Chancellor. The Chancellor also allocated an additional \$100,000 in funding to the annual Senate faculty grants program for one year (bringing the total to \$275,000 for the program), plus \$200,000 in new funding for instrumentation grants and \$200,000 in new funding for conceptualization grants.

D. Divisional Council will likely hold a special meeting with Director of Medical Education Thelma Hurd. Dr. Hurd was scheduled to attend today's meeting but had to cancel due to conflicting commitments.

II. Consent Calendar

A. Approval of today's agenda

B. Approval of the October 23 Meeting Minutes

C. Revised Emergency Educational Continuity policy

Action: the Consent Calendar was approved as presented.

III. Consultation with AVC Deborah Motton and Campus Counsel Elisabeth Gunther

AVC Debbie Motton and Campus Counsel Elisabeth Gunther attended today's Divisional Council meeting to discuss the memo issued to campus from the Office of Research and Economic Development (ORED) pertaining to foreign influence and export controls.

A Divisional Council member requested more information about the law prohibiting faculty from giving Zoom lectures to individuals in restricted countries. AVC Motton explained that if faculty deliver a lecture or attend a conference virtually on university business in a country that is on the federal government's list of comprehensively sanctioned countries, the government views that as providing a service to that country. Faculty need a license before they engage in these activities.

Giving a lecture or attending a conference virtually in restricted countries is not prohibited, rather, faculty are required to have the appropriate license. Campus Counsel Gunther added that the university is required to enforce this, otherwise, faculty are in violation of the law. Faculty will be subject to personal liability and the university will also be held liable. While the government's history of granting such licenses is inconsistent, many faculty have previously received licenses to travel to Iran before the pandemic to give talks and attend conferences.

A Divisional Council member asked about a situation in which his UC Merced students have ties to a country on the government's restricted list but they need to continue conducting research. AVC Motton replied that that is not as straightforward. She requested that the student contact her and she will consult with her UC counterparts to determine if the student requires a license. She will also draft a set of guidelines for faculty and students.

AVC Motton clarified that it is legal for faculty to advise students who are in the US on a visa. However, when those students travel back to their home country that is on the government's restricted list such as Iran, they cannot be given certain software to use. They are essentially barred from taking online courses from UC Merced while in Iran. Zoom is illegal in Iran. AVC Motton pointed out that students there might be able to access Zoom and banned software via a proxy ISP. She will check whether that is a violation of US law and if faculty would be held liable. Counsel Gunther added that if the use of proxy ISPs are in violation of US law, it would be in the realm of export control. AVC Motton state that the pandemic has also created uncertainty, i.e. she is unsure whether federal government restrictions apply to UCM students who are stuck in their home country due to the pandemic.

A Divisional Council member asked what happens if a faculty member is a journal editor, processing a paper submitted by an Iranian university. Or, what happens if a faculty member is asked to serve as a reviewer/referee for a paper submitted by an Iranian university? AVC Motton responded that if faculty are reviewing for a regular journal, it does not matter where the co-authors are from. Faculty are providing a service to the journal. The federal government license requirement only applies if faculty are providing service to a country that is on the restricted list.

A Divisional Council member asked if the federal government license is needed each time a faculty member speaks with a colleague in a restricted country. AVC Motton replied that the license covers the scope of the activity and is not required for each instance of the activity. The Divisional Council member followed up by inquiring if the license is only needed when university services are used. AVC Motton responded that export regulations apply if the activities are conducted under the scope of university business regardless of whether faculty are using tangible resources.

AVC Motton stated that she will ask her UC counterparts about the following items that were raised by Divisional Council members: 1) faculty giving virtual lectures or talks to countries on the federal government's restricted list, 2) rules about co-authored publications with students in the restricted countries, and 3) advising UC students who have moved back to their home (restricted) countries.

A Divisional Council member requested that the UC draft guidelines for researchers so they will not be afraid to collaborate with researchers in restricted countries such as China. He also pointed out that the list of banned companies includes large companies like Huawei but not the many smaller ones under them. Campus Counsel Gunther replied that she, ORED, and IT will work with faculty to ensure the equipment they purchase is consistent with federal government regulations. There is no latitude with regard to purchasing equipment from banned companies. The UC also has to conduct its due diligence process to ensure there is no issue with UC faculty's visiting Chinese scholars.

IV. Consultation with EVC/Provost Camfield

EVC/Provost Camfield stated that the UC has clear rules on how it handles conflict of commitment and conflict of interest. Faculty have to certify such activities on APM 025. However, he recognizes that there are different levels of commitment. For example, in some engineering fields, it is part of faculty's normal work under professional activity to carry out consulting. That professional activity can sometimes lead to a conflict of commitment. The UC needs to balance the need for professional activity with the faculty's intellectual freedom.

EVC/Provost Camfield announced that UC Merced will adopt UCLA's Outside Activity Tracking System (OATS). It is an electronic tool that fulfills the university's requirement for faculty reporting conflicts of commitment. It is critical to protect our faculty researchers and the university especially given the federal government's growing scrutiny of faculty's international collaborations. FBI officials visited UC Merced in a previous year to discuss these issues with campus leadership. Individuals who violated rules about conflicts of commitment have been imprisoned so this is an issue that the campus must take seriously. AVC Motton stated that the scrutiny from the federal government is bipartisan, therefore, the stringent requirements will very likely not change under the incoming Biden administration.

V. Data and Authorship Dispute Board Policy

This item was discussed at the October 23 Divisional Council meeting. Divisional Council was provided with responses from Interim VCORED Zatz and AVPF Valdez.

GC Chair Hratchian reminded attendees that Divisional Council requested that he, FWAF Chair Frank, and CoR Chair McCloskey meet to review the proposed policy. After that meeting, the three chairs drafted the memo that Divisional Council has reviewed. Their recommendation was to reject the proposal as written and instead recommend that issues of data and authorship disputes be handled by graduate group chairs and departments given the differences in norms across the disciplines. The three chairs also recommended that graduate group chairs clearly articulate the expectations for data and authorship norms to students and be held accountable in their leadership roles.

FWAF Chair Frank pointed out that the campus already has a working group to address faculty and graduate student disputes. It is unclear why that working group was not tasked with formulating a policy such as the one presented by the Interim VCORED and AVPF. The lack of Senate consultation in drafting the proposal is also a cause for concern.

Divisional Council members agreed that matters of dispute over data and authorship are best left to the graduate group chairs. Some members suggested that the dispute board does not need to be a permanent entity. A member also pointed out that disputes sometimes arise after a student has graduated so a board may not be practical if the student in question has left the campus.

A Divisional Council member suggested drafting recommendations on specific procedures that the dispute board would address rather than instituting a centralized process.

Action: Divisional Council endorsed the memo drafted by the chairs of GC, FWAF, and CoR. Interim VCORED Zatz and AVPF Valdez will be invited to consult with Divisional Council.

VI. Campus Review Item

- A. School of Natural Sciences' Proposal for change of name of academic department from "Chemistry and Chemical Biology" to "Chemistry and Biochemistry".

Prior to this meeting, Divisional Council was given access to all comments submitted by Senate committees and School Executive Committees. Senate Vice Chair Westerling briefly summarized the comments.

Action: Divisional Council unanimously endorsed the comments provided by the committees. Members Hratchian and LiWang abstained from voting due to departmental membership/affiliation. The Senate Executive Director will transmit the Senate's comments to Professor Anne Kelley, the SNS Executive Committee, and Dean Dumont.

VII. Systemwide Review Item

- A. Report of the Online Undergraduate Degree Task Force

Last year, the Academic Council formed an Online Undergraduate Degree Task Force to examine the implications of possibly creating full-time, online, undergraduate degree programs at UC. The Task Force was composed of members from each campus and focused on evaluating the desirability and feasibility of entirely online degree programs. The Task Force report provided three distinct policy options:

- Option 1 (UC-Quality On-campus Degree) would prohibit fully remote undergraduate degree programs and require at least one-third of all major units and also one-third of total units to be earned in non-remote courses.
- Option 2 (UC-Quality Remote Degree) would support the formation of entirely remote degree programs, but require that programs meet all ordinary expectations for a UC degree.
- Option 3 (Instruction-Only Remote Degree) would allow fully remote degree programs that satisfy the same coursework expectations as UC's face-to-face programs, but may not guarantee equivalent out of classroom opportunities.

Prior to this meeting, Divisional Council members were given access to the comments by Senate committees and School Executive Committees. UGC Chair Hibbing briefly summarized the comments and reported there was support for options 1 and 2 but no support for option 3. GC Chair Hratchian confirmed that a similar consensus occurred at CCGA where there was no support for option 3 and much support for option 2.

Divisional Council members were in favor of option 1 and agreed that option 3 is not feasible or desired. However, whichever option that is selected by the UC needs to be properly resourced and not diminish the UC educational experience.

Action: Divisional Council's cover memo, together with the comments from Senate committees and School Executive Committees, will be transmitted to Systemwide Senate Chair Gauvain by December 9, 2020.

VIII. Other Business

- A. Process for identify Senate faculty representatives (CoC Chair Chin).

Committee chairs are asked to inform the CoC chair and Senate Executive Director if they are approached about identifying Senate faculty representatives for any committee.

B. Shared Governance at UC Merced (Senate Chair DeLugan).

Senate Chair DeLugan discussed the administration's repeated oversight in not copying the Senate Office on relevant correspondence. There is also a concerning lack of Senate consultation on various items, such as medical education and the data and authorship dispute board proposal. Senate Chair DeLugan asked Divisional Council members to convey any shared governance concerns to herself, the Senate Vice Chair, and the Senate Executive Director. The Senate does have principles of shared governance but they are not being respected. It is important for the Senate to continue working with the administration on this issue. Senate Chair DeLugan also pointed out that unofficial consultation is not actual consultation.

Action: Divisional Council will continue this discussion.

There being no further business, the meeting was adjourned at 11:30 am.

Attest: Robin DeLugan, Senate Chair