

DIVISION COUNCIL/CAPRA JOINT MEETING
Wednesday, May 20, 2015
Time: 9:00-10:30am
Call-In Number: 1-866-740-1260, Access Code 7244371

KL 232

[DivCo 2014-2015 Resources](#) / Meeting Agendas & Materials

Item	Discussion Time
<p>I. Chair’s Report and Announcements— Vice Chair Ricci</p> <ul style="list-style-type: none"> ▪ May 7 meeting with Provost Peterson and Chancellor Leland ▪ Alternate for May 27 Academic Council Meeting ▪ Alternate for May 27 and 28 Meetings with AVC of Campus & Public Safety Candidates (meetings scheduled for May 27 and 28, from 10:00am-10:50am, in KL 362) 	5 min
<p>II. Consultation with Provost/EVC Peterson (9:00am)</p> <p>A. Ladder Rank Faculty Recruitment Plan (<i>hyperlink only</i>)</p> <p>B. Survey Results (<i>pp. 3-4</i>)</p>	40 min
<p>III. Consent Calendar</p> <p>A. Approval of the agenda</p> <p>B. Approval of the April 30 Meeting Minutes (<i>pp. 5-9</i>)</p>	
<p>IV. Correspondence</p> <p>UCM (pp. 10-54)</p> <ul style="list-style-type: none"> ▪ Interim VPF Camfield to Senate Faculty: Approved MAPP (4/30/15) -- (<i>p. 10</i>) ▪ Provost to Senate Faculty: Faculty Cluster Hiring for Diversity and Institutional Climate (5/1/15) – (<i>p. 11</i>) ▪ Chair Sun and Vice Chair Ricci memo to DivCo members (5/4/15) – not included ▪ DivCo to Interim VPF Camfield: MAPP, L(P)SOE Titles (5/4/15) – (<i>pp. 12-20</i>) ▪ GC to DivCo: Pilot Program on Accepting and Managing Equity Return (appended to DivCo’s memo to Chair Gilly, under “systemwide Academic Senate) ▪ APM 210-D: CAP to DivCo (see item VII) ▪ Review of UCM under the WSCUC Standards (<i>pp. 21-54</i>) <ul style="list-style-type: none"> – CAP: no comments (5/6/15) – COR: no comments (5/6/15) – CAPRA: no comments (5/6/15) – FWDAF: no comments (5/13/15) ▪ Chair Sun to DivCo and Executive Committee Chairs: Plans for Faculty Salary Increase (<i>p. 55</i>) <p>To and From Systemwide Academic Senate (pp. 56-162)</p> <ul style="list-style-type: none"> ▪ DivCo to Chair Gilly: Proposed Revisions to SBL 182-UCIE (5/13/15) – (<i>pp. 56-59</i>) ▪ DivCo to Chair Gilly: Pilot Program on Accepting and Managing Equity Return (5/12/15) – (<i>pp. 60-99</i>) ▪ Chair Gilly to Provost Dorr: UC Policy on Copyright and Fair Use – Final Review (5/5/15) – (<i>pp. 100-102</i>) ▪ Chair Gilly to Professor Bohn, UCSB – UCRS Advisory Board (5/5/15) – (<i>p. 103</i>) 	5 min

- Chair Gilly to Provost Dorr: Proposed Revised Presidential Policy on Sexual Harassment and Sexual Violence (5/11/15) – *(pp. 104-162)*

V. Chairs' Reports

25 min

- CAPRA-Chair Kelley
- CoC-Chair LiWang
- GC-Chair Hull
- COR-Chair Noelle
- FWDAF-Chair Ortiz (or alternate if called for jury duty)
- CRE-Vice Chair Tian
- UGC-Chair Vevea

VI. Discussion Item – Vice Chair Ricci

- A. Open Access Educational Resources – Senate Bill AB-798 (Bonilla) *(pp. 163-164)* **10 min**
 Senate Bill AB-798, currently in the State Assembly, is about encouraging the use of open educational resources by faculty. To get a grant, the bill says, "The local academic senate of a campus of the University of California, the California State University, or the California Community Colleges may adopt a local campus resolution, in collaboration with students and the administration, stating its intent to increase student access to high-quality open educational resources."

[Letter of support from David Morse, President of Academic Senate, CA Community Colleges](#)

VII. Systemwide Review Item(s):

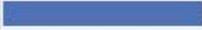
5 min

- A. [Final Review of Proposed Revisions to APM 210-1-d](#) **(comments due 5/21/15)**
 This revision was proposed by an Academic Council working group consisting of the chairs of BOARS, UCAAD, UCAP, UCEP and the UCSD division, and endorsed unanimously by the Academic Council in February. Final reviews are not expected to lead to additional substantive changes in the proposed policy.
 CAP, COR, and FWDAF opined on 5/1 and 5/11 *(pp. 165-167)*
Action Requested: Draft DivCo response to Systemwide Academic Senate.

VIII. New Business

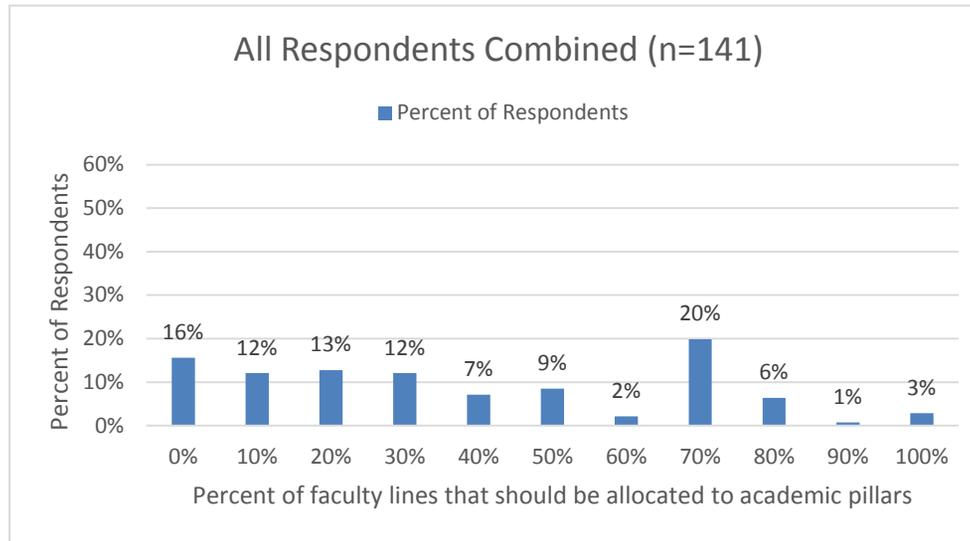
Of the 222 Senate faculty members invited to complete CAPRA's survey about the Provost's Ladder-Rank Faculty Recruitment Plan between April 28 and May 4, 141 (63.5%) responded.

I support the Ladder-Rank Faculty Recruitment Plan as described in the Provost's Ladder-Rank

#	Answer	Bar	Response	%
1	Yes		50	35.46%
2	No		91	64.54%
	Total		141	100.00%

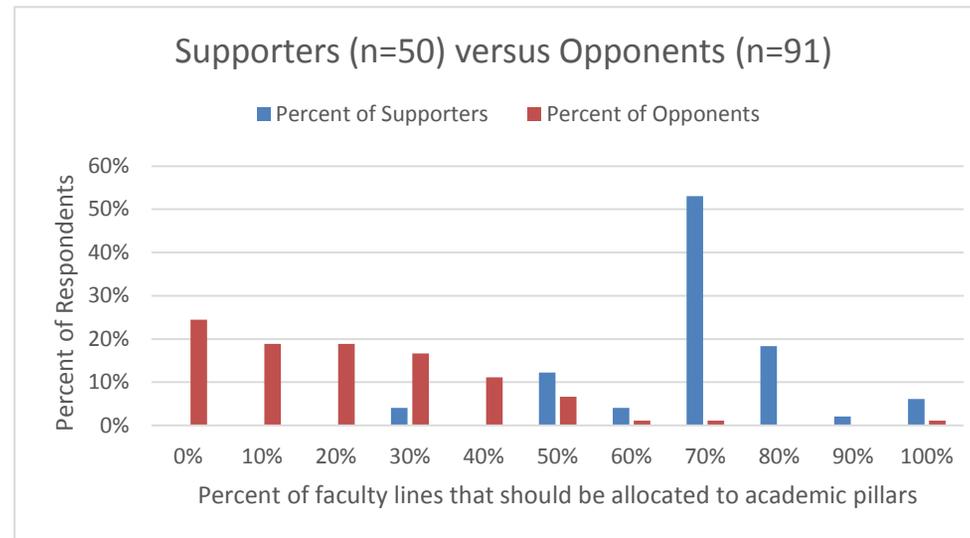
All

Percent Should Be	Percent of Respondents
0%	16%
10%	12%
20%	13%
30%	12%
40%	7%
50%	9%
60%	2%
70%	20%
80%	6%
90%	1%
100%	3%
Total	100%



Supporters versus Opponents

Percent Should Be	Percent of Supporters	Percent of Opponents
0%	0%	24%
10%	0%	19%
20%	0%	19%
30%	4%	17%
40%	0%	11%
50%	12%	7%
60%	4%	1%
70%	53%	1%
80%	18%	0%
90%	2%	0%
100%	6%	1%
Total	100%	100%



Division Council (DivCo)
Minutes of Meeting
April 30, 2015

Pursuant to call, Division Council met at 1:30 pm on April 30, 2015 in Room 362 of the Kolligian Library, Chair Jian-Qiao Sun presiding.

I. Chair's Report

Chair Sun reported the following items of discussion at the April 29 Academic Council meeting:

- Staff members from Governor Brown's office have been visiting UC campuses.
- Online education.
- Distribution of the 3% increase in faculty salary. The issue remains unresolved. Campuses were asked to opine last semester on how the 3% should be distributed and all comments were submitted to UCOP.
- Streamlining Transfer. Earlier this year, Provost Dorr and Chair Gilly asked campuses administrators to identify the faculty, academic administrators, and/or staff responsible for determining the pre-major preparation expected of transfers students in 21 majors. A similar request was made of BOARS. UCOP has begun to convene groups of campus representatives from ten majors beginning with Life Sciences. The goal is for the UC to establish agreements for ten transfer pathways by fall 2015, with ten more the following year.
- Systemwide review of revised presidential policy on sexual harassment and violence. Two campuses in particular conducted profound analyses of the proposed policy.

II. Project 2020 Updates

The following guests provided an update on Project 2020 developments: VC for Planning & Budget Dan Feitelberg, AVC for Planning & Budget Veronica Mendez, Director of Academic Facilities Planning Steve Rabedaux, AVC for Real Estate Abigail Rider, and Principal Planner for Physical & Environmental Planning Richard Cummings.

- The draft RFP will be released next week to the three short listed Project 2020 developer teams.
- There will be three feedback loops this summer. The administration will meet with the three teams individually and campus constituents will also have the opportunity to provide input.
- The bid process will begin in the fourth quarter of this year. In July, VC Feitelberg and his team will brief the Regents and will meet them again in September to continue the discussion of the “business case”, which will explain how the contract is structured.
- The procurement process is governed by the Instructions to Proposers which include the evaluation criteria. The project agreement contains the 1) base agreement which includes the commercial terms, 2) appendices which include maps and the lending agreement and 3) technical components which include the design and construction specifications.

A question and answer period with Council members and VC Feitelberg followed.

A Council member inquired about the space allocation and how VC Feitelberg and his team arrived at that number. Another member asked how those numbers in the RFQ will change in the RFP. VC Feitelberg responded that the space allocation is not yet determined. At this point in the process, we are determining the overall program we can afford, the eligibility of utilization of state general funds, and what is feasible for our campus in light of the state budget situation. Director Rabedeaux emphasized that while the Provost’s Strategic Academic Focusing initiative helped inform the process, his team is not determining specific square footage at this time. Council members expressed concern about the square footage of lab space currently listed in the RFQ. AVC Rider distributed a document (confidential) to those in attendance that dictates benchmark space, what the state will agree to fund, and what we can actually build. It also contains demographic projections to 2022 on number of ladder rank faculty. This is an iterative process and during the summer, this information may be adjusted.

Director Rabedeaux cautioned against being too prescriptive at this stage, as the developers need to have some flexibility. The administrative guests also pointed out

that the operations and management of these buildings are critical and performance measurements metrics have been established. The administration has spent a significant amount of time evaluating the conditions that the buildings must be in when the campus takes ownership of them years from now.

In the foreseeable future, the administration will hold program and discipline-specific meetings with appropriate faculty to elicit input on specific space needs.

A Council member mentioned that there appears to be some resistance to welcoming faculty feedback in the revisions phase; faculty ought to be able to see the planning documents as the faculty have the expertise. One of the administrative guests acknowledged this, but pointed out that he is constrained by the confidentiality agreements put into place during the RFP process. Faculty input is welcomed, but the administration wants to be respectful of faculty members' time, and the documents are quite lengthy. While the documents distributed at this meeting are confidential and not to be shared outside this meeting, AVC Rider stated that in the future, she would be willing to go through the documents with faculty members to answer further questions.

A brief discussion then ensued about debt, century bonds, and general revenue bonds. UCM wants to issue 50% or more itself.

A Council member raised the issue of the assignable square footage projections and that they would place UCM at less than half the assignable square footage per faculty member than comparison universities. AVC Rider replied that instead of using a standard square foot number, the team built an array, consisting of a PI and number of support staff. The rationale is that they must allow room for the growth of graduate programs and avoid being out of space in 2020. At this point, the administration is developing space needs; the second phase will be consist of space assignments.

VC Feitelberg ended by welcoming additional faculty feedback during the iterative processes this summer.

III. Consent Calendar

Today's meeting agenda was approved as presented.

IV. General Education

As Chair Sun had to leave the meeting, Vice Chair Ricci presided thenceforth.

- Vice Chair Ricci reminded Division Council members that General Education is currently undergoing program review. One of the main messages received from the external review report is that UCM ladder-rank faculty need to become more involved with general education.
- General Education Subcommittee Chair Anne Zanzucchi is convening a retreat in June. Due to the likelihood of reduced faculty attendance, another retreat is proposed for September.
- UGC Chair Vevea pointed out that the June retreat will be one of many opportunities for faculty to provide feedback on general education issues.

V. GASP Major Proposal

Division Council members briefly discussed the response from Senate committees on the GASP major proposal. GC, UGC, and CAPRA expressed concerns about resources required to deliver the major, demand for the major, and the use of LPSOEs. Vice Chair Ricci and UGC chair Vevea indicated that there is widespread support for the concept of the major and it will be unique in the UC system due to its emphasis on world culture.

ACTION: Division Council to submit a cover memo to SSHA requesting that the proposal authors respond to concerns from the three Senate committees.

VI. Discussion Item

Vice Chair Ricci suggested that beginning in AY 16-17, the Division Council chair be required to serve for two years in the interest of continuity for Senate business. A few Council members expressed concern, as this would require the Senate Vice Chair to spend four years in service – two as vice chair and two as chair. One alternative is to establish a “past president” system whereby the former Division Council chair provides oversight but does not vote. CRE Chair Vanderschraaf stated that CRE will consider the matter.

VII. Provost's FTE Hiring Plan

CAPRA submitted a survey on April 28 to all faculty members and it will close on Monday, May 4. Council members discussed how the results will be used and distributed. One Council member was concerned about the "yes/no" construction of the first question of the survey as faculty members have issues with various components of the plan. It was pointed out that Division Council needs to buy in to the survey; CAPRA could prepare an analysis and summary of the survey results and Division Council could submit this to all faculty and the Provost. A Council member suggested that the Provost's plan be submitted to each Senate committee for review and comments, as each committee has its own perspective.

VIII. Executive Session – voting members only

Discussion is confidential and no minutes were taken.

There being no further business, the meeting was adjourned at 3:30 pm.

Attest:

Jian-Qiao Sun, Senate Chair

Minutes taken by: Simrin Takhar, Senate Analyst and Fatima Paul, Senate Assistant Director

From: Fatima Paul
Sent: Thursday, April 30, 2015 4:31 PM
To: academicsenate@ucmcrops.ucmerced.edu
Cc: Gregg Camfield; Becky Gubser; Pam Moody
Subject: ANNOUNCEMENT FROM VPF CAMFIELD - MAPP REVIEW

Members of the Academic Senate,

On behalf of Gregg Camfield, Interim Vice Provost for the Faculty:

The current approved Merced Academic Personnel Policies & Procedures manual (MAPP) is viewable on the new APO website, at: <http://academicpersonnel.ucmerced.edu/policies/merced-academic-personnel-policies-procedures>. Contrary to our previous practice, we will not be sending the MAPP out for review this Spring. (The recent circulation of the chapter on L(P)SOE titles was really the conclusion of last year's MAPP revision.) In order to ensure careful and thorough review, we will adopt a new review schedule. APO will prepare the next iteration of the MAPP over the summer and will send this draft out for first review in the Fall semester. After we incorporate feedback as appropriate, we will circulate revisions early in the spring semester for a second round of review. We will then incorporate any further changes and send the results to the Provost/EVC for final approval. We intend to publish the next approved version by July 1, 2016.

We do not intend to make wholesale changes to the MAPP. Some alterations and additions are needed in order to bring certain sections in line with the APM. Other sections need revision in order to smooth our personnel processes. Finally, although this MAPP has been reviewed and approved, there are, I know, areas of concern for some, and I wish to solicit your input now so we may take your comments into consideration as we prepare the next iteration over the next few months. Please send your suggestions to me with a cc to Pam Moody at pmoody@ucmerced.edu.

Thanks very much for your participation in this important process.

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Fatima Paul
Assistant Director
Academic Senate, Merced Division
Tel: 209-228-7930
fpaul@ucmerced.edu

From: Fatima Paul
Sent: Friday, May 01, 2015 2:27 PM
To: academicsenate@ucmcrops.ucmerced.edu
Cc: Tom Peterson; Susan Sims; April Graves
Subject: MESSAGE FROM PROVOST/EVC PETERSON: REPORT ON FACULTY CLUSTER HIRING

Members of the Academic Senate,

Provost/EVC Peterson has requested that the message below and attached report on *Faculty Cluster Hiring for Diversity and Institutional Climate, April 2015*, be shared with you.

Best,

Fatima Paul

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Dear Colleagues,

To contribute to the continued dialogue about the impact of cluster hiring, I would like to draw your attention to the attached report, and the referenced summary below. It is a result of a national study which was released just yesterday.

<https://www.insidehighered.com/news/2015/05/01/new-report-says-cluster-hiring-can-lead-increased-faculty-diversity>

The report identifies strengths and weaknesses to the approach, and suggests particular details of the process to which attention must be paid. I hope you find it useful.

Thank you,

Tom Peterson
Provost

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SANTA BARBARA • SANTA CRUZ

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senatechair@ucmerced.edu

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May 4, 2015

To: Gregg Camfield, Interim Vice Provost for Faculty
From: Jian-Qiao Sun, Chair, Division Council
RE: Revised MAPP Chapter – LPSOE/LSOE Titles

The Senate Standing Committees and School Executive Committees were asked to review and comment on the proposed changes to the MAPP related to the LPSOE/LSOE titles. Appended to this memo are the comments we have received from the Committee on Academic Personnel and Graduate Council. I believe that the comments are quite constructive and hope that you will consider them in further revisions of the MAPP.

We thank you for the opportunity to opine.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Sun".

Jian-Qiao Sun, Chair
Division Council

CC: Division Council
Senate Office

Encl. CAP Memo
GC Memo
Revised MAPP

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SANTA BARBARA • SANTA CRUZ

ACADEMIC SENATE, MERCED DIVISION
COMMITTEE ON ACADEMIC PERSONNEL (CAP)
RAYMOND GIBBS, CHAIR
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(209) 228-4369; fax (209) 228-7955

April 29, 2015

To: Jian-Qiao Sun, Chair, Division Council

From: Raymond Gibbs, Chair, Committee on Academic Personnel (CAP) *Raymond Gibbs*

Re: Proposed Revisions to MAPP – LPSOE/LSOE

CAP has now reviewed the proposed changes to the MAAP, specifically regarding the LPSOE/LSOE titles. We wish to raise one issue concerning the role of peer evaluation of teaching in the academic review process.

In the section on teaching (page 3), the draft says that “Student and peer evaluation of teaching is central to the review process.” Later on, however, on page 5, the draft states that “Opinions of colleagues, particularly if based on class visits” are part of the evidence that “may” be included in the assessment of teaching.

Our question is whether peer evaluation should be included as a *necessary* part of any teaching review. CAP always appreciates multiple sources of evidence in evaluating teaching performance, including peer evaluation, if possible. We note that external reviewers on promotion cases to the rank of LSOE sometimes explicitly inquire about the lack of peer evaluation in the materials they receive.

However, as much as we welcome feedback from peers, especially related to direct observation of classroom instruction, we also acknowledge the difficulties associated with creating a fair, widely agreed upon plan for obtaining peer evaluation of teaching.

For now, CAP simply raises the issue of the slight inconsistency in the MAPP document as to whether peer evaluation is required or not in the assessment of LPSOE and LSOE faculty. But we also urge Academic Personnel to initiate broader discussions with faculty about how best to fairly, consistently include peer evaluations in these academic personnel reviews.

CAP appreciates the opportunity to opine.

cc: Division Council
Senate Office



ACADEMIC SENATE, MERCED DIVISION
GRADUATE COUNCIL (GC)
KATHLEEN HULL, CHAIR

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(209) 228-6312

April 29, 2015

To: Jian-Qiao Sun, Senate Chair

From: Kathleen Hull, Chair, Graduate Council (GC)

Re: Review of Proposed Revision to the MAPP Chapter on LPSOE/LSOE Series

In response to the request from the Vice Provost for Faculty, Graduate Council (GC) has completed its review of the proposed revisions to MAPP chapter pertaining to LPSOE and LSOE titles. GC offers the following comments, with the general recommendation for more explicit language regarding the expectations for, and role(s) of, LPSOE/LSOEs in graduate education:

- GC feels strongly that LPSOE/LSOEs should not serve as primary faculty advisors for graduate students except under exceptional circumstances, although certain graduate groups may allow LPSOE/LSOEs to participate in graduate education as core or affiliate faculty. GC believes that such advising would, at a minimum, disadvantage the student upon graduation, and might also place an undue burden on LPSOE/LSOE faculty. Therefore, GC recommends striking “directing of” from paragraph #1 of Section 2054.B Teaching regarding “dissertation work.”
- Since graduate group membership is determined by graduate group bylaws rather than the MAPP, only some LPSOE/LSOEs may have the ability to participate in graduate student teaching and mentoring. Therefore, GC is concerned that appraisal of these faculty (Section 2054.B Teaching) may be uneven across campus, with some LPSOE/LSOEs held to a higher standard than others and some faculty in these series unfairly appraised despite the fact they are unable to participate in graduate education. Therefore, GC recommends that the MAPP make explicit that graduate student mentoring and teaching is not required for merit and promotion.
- Similarly, GC recommends that “mentoring and advising of students” (Section 2053.A Teaching) for appointment be clarified or restricted to undergraduate students, so it is clear there is no expectation of prior graduate student advising as a condition or qualification for appointment.

Cc: Division Council
Graduate Council
Academic Senate Office

CHAPTER 2: ACADEMIC SENATE TITLES
05. LECTURERS WITH SECURITY OF APPOINTMENT

2051: GENERAL GUIDELINES

A. Titles, Description, Eligibility

Titles in this series are:

- Lecturer with Security of Employment (**Lecturer SOE**)
- Senior Lecturer with Security of Employment (**Senior Lecturer SOE**)
- Lecturer with Potential Security of Employment (**Lecturer PSOE**)
- Senior Lecturer with Potential Security of Employment (**Senior Lecturer PSOE**)

[Note: Appointments in the titles Lecturer and Senior Lecturer (both Continuing and “pre-six”) are not part of this series but are part of Unit 18, which is discussed separately in MAPP Chapter 3 Section 10. See also the Memorandum of Understanding for the Non-Senate Instructional Unit.]

Appointees in the Lecturer with Security of Employment (LSOE) series specialize in meeting long-term instructional needs (APM 285-0). Potential appointees should show clear evidence of teaching ability of exceptional quality and promise of future growth. Appointees in this series engage in teaching, professional activities, and University and public service (APM 285-4.a, 210-3.b). Appointment in this series does not require responsibility to engage in research. Appointees may teach courses at any level, with the expectation that they will carry heavier instructional responsibilities than those in the Professorial series.

Full-time appointees in this series are members of the Academic Senate (Standing Order of the Regents 105.1). As such, they are expected to participate in the shared governance of the campus and the University (Standing Order of the Regents 105.2). Refer to Bylaw 55 for information regarding voting rights for appointees.

A registered student or candidate for higher degree at the University of California is not eligible for appointment to this series.

B. Terms of Service

Typically, an appointment to this series is for full-time service to the University; an appointment made at less than full-time to any title in this series is exceptional and requires approval by the Provost/Executive Vice Chancellor. Such authorization will not normally be granted when the individual’s professional commitment is to be divided between the University and another institution or organization.

Lecturer PSOE or Senior Lecturer PSOE:

- An appointment at the PSOE rank may be viewed as a “security of employment-track” position, in the same way that an Assistant Professor appointment is a “tenure-track” position.
- All appointments to the ranks of Lecturer PSOE and senior Lecturer PSOE are for specified terms.
- Lecturers/Senior Lecturers PSOE are appointed for a period of two years and are subject to the Eight-Year Limit.

- The initial term of appointment of an LPSOE or Senior LPSOE ends on the second June 30th after the effective date of the appointment.
- A new two-year term commences effective with merit advancement.
- Periods of approved leave with or without salary count as part of a two-year term.
- In order to make clear to an appointee that the appointment is for a specified term, all correspondence for such appointees must reflect the specific ending date of the term.

Lecturer SOE or Senior Lecturer SOE:

- Security of employment may be granted only for an appointment at more than half time (Standing Order of the Regents 103.10).
- Security of employment is not a reward for length of service but is based upon appraised and recognized merit.
- Appointments with SOE are continuous until terminated by resignation, retirement or dismissal for cause.

C. Salary

Individuals appointed as a Lecturer (PSOE or SOE) are compensated at a rate on the Academic Salary Scale for this series.

Salaries for Lecturers PSOE will normally begin at a close equivalent to the salaries for Assistant Professors. Academic personnel review will occur every two years. Promotion to Lecturer SOE will normally occur during the sixth year of service as Lecturer PSOE or a combination of other eligible titles (APM 133-0.b).

Salaries for Lecturers SOE will normally begin at a close equivalent to the salaries for Associate Professors, with academic personnel review occurring every two years. If a Lecturer SOE is being paid at a salary equivalent to that of a Professor, the academic review will occur every three years. Senior Lecturers SOE may not receive less than the rate for Professor, Step I.

Senior Lecturers SOE may be appointed with a salary level above the top of the salary range ("Above-Scale"), upon evidence of great distinction, recognized nationally and/or internationally. The honorary title "Distinguished Senior Lecturer with Security of Employment" may be conferred upon Senior Lecturers SOE with a salary above the top of the range, to denote distinction equivalent to the title of "Distinguished Professor."

2052: RECRUITMENT

All policies and procedures for recruitment in this series shall follow those outlined in MAPP 2012.

2053: APPOINTMENT

Full-time Lecturer titles that have or lead to Security of Employment are Senate faculty positions (Standing Orders of the Regents 105.1.a). These appointments are subject to the Instructions for Review Committees Which Advise on Actions Concerning the Lecturer with Security of Appointment Series (APM 210-3) and will follow the policies and procedures detailed in MAPP 2013 except as otherwise indicated in this Section.

A. Criteria

Appointment as a Lecturer/Senior Lecturer SOE/PSOE requires achievement in three areas: teaching, professional competence and activity, and University and public service. Some types of possible documentary evidence are outlined in MAPP 2054 below.

Teaching:

Excellent teaching is an essential criterion for appointment. Clear documentation of ability and effectiveness in teaching is required. The candidate's case file should show evidence of the extent and skill of the candidate's participation in the general guidance, mentoring and advising of students. APM 210-3.c.1 provides points to consider in judging the effectiveness of a candidate's teaching.

Student and peer evaluation of teaching is central to the review process, but evidence will also be sought of significant contributions to teaching through development of superior teaching materials, programs for teaching improvement, and other activities related to teaching.

Professional Competence and Activity:

An appointee in the LSOE series is expected to maintain currency in the profession and pedagogy. The candidate's file must provide evidence of professional achievement and activity, and the candidate's professional activities should be reviewed for evidence of achievement and leadership. Intellectual leadership may be demonstrated through publications, creative accomplishments, or other professional activity demonstrating that the candidate has made outstanding and recognized contributions to her or his special field and/or pedagogy.

University and Public Service:

The candidate must demonstrate service to the Unit, campus and University and/or the public. Particular attention should be paid to that service which is directly related to the candidate's professional expertise and achievement.

2054: MERIT, PROMOTION, APPRAISAL REVIEW

A. Overview

The academic advancement processes for Lecturers/Senior Lecturers PSOE/SOE follow procedurally those detailed for the Professor series in MAPP 2014, including use of the short form, negative review outcomes, and postponement of promotion review. Lecturers in this series are guaranteed the same rights as ladder-rank faculty, as codified in the Procedural Safeguard Statement. Certain details particular to the Lecturer SOE series are recorded here.

Lecturers with Potential for Security of Employment (LPSOEs) are subject to academic review for reappointment and potential advancement every two years. Reappointments are for a two-year term; however, an LPSOE may be reappointed without a promotion or advancement (APM 285-8.c). Similar to the Professorial series, in the fourth year of appointment a comprehensive review known as a Mid-Career Appraisal (MCA) is conducted to assess an LPSOE's potential for promotion to Lecturer with Security of Employment (LSOE). The MCA for the Lecturer series will be conducted with the same degree of rigor used in evaluating ladder-rank faculty, modified appropriately to address the requirements of this series (see MAPP Appendix 2014-A). Review

for promotion to Lecturer SOE will normally occur during the sixth year of appointment as LPSOE.

[Note: Per APM 133-0.b, service in titles other than Lecturer/Senior Lecturer PSOE on any University of California campus counts toward the eight-year limit or “clock” for LPSOEs. These titles include Unit 18 Lecturers, Assistant Professors, Acting Professors, and Visiting Professors.]

Review and Appraisal Schedule for LPSOE/SOE Series	
Title and Action	Year
LPSOE	
Appointment	0
Reappointment and Potential Merit	2
Reappointment, Potential Merit and MCA	4
Promotion Review	6
LSOE	
Normal Merit Review	every 2-3 years
Promotion Review*	6
Senior LSOE	
Normal Merit Review	every 3-4 years**

*Promotion to Senior LSOE is not normally expected, but may occur when warranted. A Lecturer SOE will become eligible for promotion after not less than six years of service as Lecturer SOE.

**Senior LSOEs should normally be reviewed every three years, until they have reached a salary level equivalent to Professor Step V, after which reviews will not occur after less than four years.

Lecturers/Senior Lecturers SOE may choose to defer review, but they are subject to the same quinquennial review requirements as faculty in the professorial series. (APM 200-0). Lecturers PSOE may not defer.

B. Criteria/Documentation

The three criteria required for appointment to the Lecturer SOE series, described in MAPP 2053 above, also apply to all advancement actions. Salary advancement in this series will be based on demonstrated growth in the value of services the candidate provides; it is recognized that this rate of growth will be more variable, and in some cases slower, than for those in Professorial positions (APM 285-18). What follows is guidance as to the types of evidence that

may be submitted with the case file and/or analyzed in the Case Analysis, Transmittal Memo, and Dean's Recommendation to support an advancement proposal.

Teaching:

Teaching is the primary area of review in the Lecturer SOE series. Documentation of teaching should include an accounting of the candidate's teaching load for the review period with all available teaching evaluations. Teaching activities may include instruction-related activities such as conducting training, supervision of Teaching Assistants or Unit 18 Lecturers, course development and/or revision, curricular planning, directing or participating in graduate student dissertation work, directing reading groups, seminar and symposium presentations, independent study endeavors, as well as the writing of textbooks and software. Other significant types of evidence **may** include:

- Analysis of course materials such as the syllabus and reading lists, a description of the course and its goals, and a self-statement on the achievement of these goals by the candidate.
- Information about time spent on supervision and mentoring of peers or students, leading non-credit bearing educational programs, being available to and guiding students outside class, preparing for classes, undertaking courses not taught before, and improving instructional methods. Opinions of colleagues, particularly if based on class visits, observations of lectures, or knowledge of student performance in courses subsequent to those taught by the candidate.
- Opinions of current and former students, including opinions of graduates who have achieved notable professional success.
- Information about the reception of lectures given by the candidate before professional or learned societies.
- Documentation of any teaching awards received.
- Input from colleagues in team-teaching situations.
- Evidence of attention to student learning/learning outcomes

[Note: Individuals asked to provide opinions on teaching should be solicited in writing and provided the University's Confidentiality Statement.]

Professional Competence and Activity:

The candidate's professional activities should be reviewed for evidence of achievement and leadership in the field and of demonstrated innovation in the development or utilization of new approaches and techniques for the solution of professional problems. Evidence may include documentation of such activities as:

- Making presentations of teaching improvements at professional conferences.
- Election to significant offices of professional or learned societies.
- Invitations to lecture, present papers, etc.
- Awards, grants or honors bestowed by organizations or foundations.
- Requests for consultative service.

University and Public Service:

Academic appointees play an important role in the administration of the University and the formulation of its policies. Consideration should therefore be given to whether candidates are participating effectively and imaginatively in faculty government, University committees, and the

development of Unit, School, campus, and University policies. Services to the community, state, and nation are also to be recognized. Documentary evidence may include such activities as:

- Service in Unit, Academic Senate, and administrative capacities (including committee service).
- Contributions to student welfare through service on student-faculty committees and as advisors to student organizations.
- Activities related to the improvement of elementary and secondary education.
- Appointment or election to office in a professional organization, on a professional publication, or within a community, state, national, or international organization.
- Requests to edit or review for professional journals.

2055: SABBATICAL AND OTHER LEAVES

A. Educational Leave

Lecturers in the SOE series are eligible for Educational Leave. Educational Leave is granted for the purpose of allowing Lecturers in the SOE series to engage in intensive programs of study and/or professional development, thus to become more effective teachers and scholars and to enhance their services to the University. Leave credit accrual and usage will follow the policies for accrual and use of Sabbatical Leave credits (APM 740 Charts III-IV, MAPP 2015). It is preferred that appointees in this series take Educational Leave in non-consecutive one-semester increments due to the instructional need of the Schools for their services. A return to University service, equal to the time period of the leave, will be required. Failure to return to service will create an obligation on the part of the Lecturer to refund the entire salary received during the leave.

Within ninety calendar days of returning from Educational Leave, the Lecturer will submit to the Dean a concise report of the results of the leave, including an account of progress made. The report will become part of the supporting documentation included in the next academic personnel review file; the review file will not be processed unless the report is included.

B. "Stop-the-Clock"

For determining service toward the eight-year limit, the combined total of periods of leave unrelated to academic duties and time off the clock may not exceed two years (APM 133-17.g).

2056: DISCIPLINE

All policies and procedures for discipline in this series shall follow those described in MAPP 2016.



UNIVERSITY OF CALIFORNIA, MERCED
5200 NORTH LAKE ROAD
MERCED, CA 95343

April 20, 2015

Jian-Qiao Sun
Chair, UC Merced Division of the Academic Senate
UC Merced

RE: UC Merced's Review under the WSCUC Standards

Dear Chair Sun:

As you know, this semester UC Merced initiated its efforts to re-affirm accreditation by the WASC Senior College and University Commission (WSCUC, formerly "WASC"). This process, which involves several stages¹, will conclude with an Accreditation Visit in spring 2018 and, in June 2018, the WSCUC Commission decision to re-affirm accreditation for a period of 6, 8 or 10 years. The Chancellor and Provost expect UC Merced to earn a 10-year re-affirmation period, continuing our record of strong accreditation reviews.

The first step in the Institutional Review Process for re-affirmation is to complete, as an institution, the *Review under the WSCUC Standards*. Through this first step, UC Merced will

1. Undertake a preliminary, systematic institutional self-analysis under the [WSCUC Standards](#), the commitments, standards, and criteria UC Merced must be in substantial compliance with for accreditation to re-affirmed.
2. Identify strengths and areas of good practice.
3. Identify areas that may need attention.
4. Generate a required document for our accreditation review; the *Review under the WSCUC Standards* is the basis for the second essay of the [institutional self-study report](#), and the conclusions and supporting evidence are carefully validated by the external review team.

The WSCUC Steering Committee has completed a draft of the *Review under the WSCUC Standards* on behalf of the campus, and is now seeking feedback on this draft.

Toward that end, I write to invite the Academic Senate to review the document, with a particular focus on Standards 2, 3, and 4, and return comments to me (with a cc to Laura Martin) by Thursday

¹ The stages of the Institutional Review Process (IRP) for re-affirmation, and the campus' timeline for this work, are available on the [Re-affirmation page](#) of UC Merced's accreditation website, accreditation.ucmerced.edu.

May 21st. If this is not possible, please respond with an alternative submission date as soon as possible.

When reviewing the document, the faculty of the Senate should consider the extent to which they agree with

1. The Steering Committee's *Self-Review Rating* (column 3) and rating of *Importance to Address* (column 4) for each Criteria for Review (CFR). WSCUC's scoring rubric is provided in the box in the upper left hand portion of p. 2 of the document.
2. The responses to the Synthesis/Reflections questions for each of the four standards.

If there is disagreement with a self-rating score, **these differences can be noted in the document using the PDF sticky note or highlight function. Alternative scores, together with a brief explanation for the conclusion, including hyperlinks and/or references to evidence in support of the conclusions, are welcome.**

Similarly, the PDF sticky note and/or highlight function can be used to comment on and/or modify responses to the Synthesis/Reflection questions.²

To increase the efficiency of the work, we recommend dividing the work of reviewing each Standard among individuals or teams of individuals.

Laura Martin, the campus' Accreditation Liaison Officer (ALO), and I are happy to meet with the Senate to review this process and/or answer questions. Please note that the first page of the worksheet includes a helpful overview, including

- the purpose of the worksheet , *Purpose of Worksheet*
- the relationship of the WSCUC Standards, Criteria for Review (CFR), and Guidelines, *The WSCUC Standards, CFRs, and Guidelines*
- guidance for completing the worksheet, *Using this Worksheet*

Finally, please know that, in addition to the Senate, a broad array of institutional stakeholders have been invited to review and comment on this draft, including but not limited to the School Executive Committees, campus administrative leadership, and student leadership.

On behalf of the Steering Committee, thank you very much for your assistance in completing this significant first stage in our re-affirmation of accreditation effort. We look forward to your feedback.

Sincerely,
Nate Monroe
Associate Professor, and Chair, WSCUC Steering Committee

² We chose not to offer Word documents as we have found the tables quite difficult to work with and somewhat unstable in their formatting.

Review under WSCUC Standards and Compliance with Federal Requirements

Purpose of the Worksheet

This worksheet is designed to assist planning groups preparing for a WASC Senior College and University Commission (WSCUC) review to undertake a preliminary, systematic institutional self-analysis under the WSCUC Standards by identifying strengths and areas of good practice as well as areas that may need attention. Institutions will also use this worksheet to identify, and insert references to, key supporting documentation to support its judgments. Teams will follow these references to verify the completeness of the information. After being used to stimulate discussion and to help focus the review, the completed worksheet will then be submitted with the self-study for evaluation as evidence for Component 2 of the Institutional Report at the time of the Offsite Review, with follow up as needed at the time of the Accreditation Visit. The submission of this worksheet with the institution's self study helps to validate that the institution has been reviewed under all Standards and relevant Criteria for Review.

The WSCUC Standards, CFRs, and Guidelines

The WSCUC Standards guide institutions in self-review, provide a framework for institutional submissions, and serve as the basis for judgments by evaluation teams and the Commission. Each Standard is set forth in broad holistic terms that are applicable to all institutions. Under each of the four Standards are two or more major categories that make the application of the Standard more specific. Under each of these categories are Criteria for Review (CFRs), which identify and define specific applications of the Standard. Guidelines, provided for some but not all CFRs, identify typical or common forms or methods for demonstrating performance related to the CFR; institutions, however, may provide alternative demonstrations of compliance. This worksheet contains all the CFRs and Guidelines from the 2013 *Handbook of Accreditation*. An "X" in the cell indicates a cross-reference to other CFRs that touch on related issues.

Using this Worksheet

The worksheet is used during the early stages of planning for the Institutional Report and may be revisited later when preparing for further reviews. For each CFR, institutions are asked to give themselves a rating indicating how well they are doing, to identify the importance of addressing the CFR as an aspect of the review, and to provide comments as appropriate, about their self-assessment. Key areas may thereby be identified where more evidence is needed or more development required. Institutions may have members of the planning group complete the worksheet individually with responses reviewed by the group as a whole. Or an institution may divide the worksheet by Standards with different groups completing each standard. Use these or other approaches to complete the worksheet.

Once the institution has completed this self-review process, priorities that are identified using this form should be integrated with the institution's context, goals, and planning in the development of its report. Summary questions are provided in the worksheet as a means of assisting institutions in determining areas of greatest concern or areas of good practice to be addressed or highlighted in institutional reports. Please include the summary sheets with the submission of this worksheet.

Compliance with Federal Requirements

In addition to the Review, there are four checklists that team members will complete during the Accreditation Visit and attach to their team report in order to ensure that the institution is in compliance with the federal requirements cited in the checklists. The institution is expected to provide the links to the needed information in anticipation of the team's review at the time of the visit.

Review under WSCUC Standards

<p>Provide the institution's consensus rating for columns 3 and 4; add comments as appropriate in column 5. For un-shaded cells in Column 6, delete text and provide links or references to evidence in support of findings. Column 7 is for staff and teams to verify documentation and for teams to comments on evidence.</p> <p><u>Self-Review Rating</u> 1= We do this well; area of strength for us 2= Aspects of this need our attention 3= This item needs significant development 0= Does not apply</p> <p><u>Importance to address at this time</u> A:U= High priority – Urgent A:OA = High priority – Ongoing attention needed in light of 2020-related growth. B= Medium priority C= Lower priority 0= Does not apply</p>	<p style="text-align: center;">Institutional Information</p> <p>Institution: University of California, Merced</p> <p>Type of Review: ® Comprehensive for Reaffirmation</p> <p>Date of Submission: ____/____/____ Mo Day Year</p> <p>Institutional Contact: Laura Martin, ALO</p>
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Standard 1. Defining Institutional Purposes and Ensuring Educational Objectives <i>The institution defines its purposes and establishes educational objectives aligned with those purposes. The institution has a clear and explicit sense of its essential values and character, its distinctive elements, its place in both the higher education community and society, and its contribution to the public good. It functions with integrity, transparency, and autonomy.</i>						
Criteria for Review (1)	Guidelines (2)	Self-Review Rating (3)	Importance to Address (4)	Comments (5)	Evidence (Un-shaded only) (6)	Team/Staff Verification (7)
Institutional Purposes						
1.1 The institution's formally approved statements of purpose are appropriate for an institution of higher education and clearly define its essential values and character and ways in which it contributes to the public good.	The institution has a published mission statement that clearly describes its purposes. The institution's purposes fall within recognized academic areas and/or disciplines.	2	C	Though functional, the mission could benefit from revision. A recurrent theme is that the mission statement is overly long and slightly outdated. Recently, CAPRRA noted that the mission is not a relevant reference document. Rated as a lower priority in light of more urgent and important priorities. Steering Committee noted that UCM might consider updating its mission after the self-study is complete, permitting revisions to be informed by the outcomes of the self-study process.	Evaluated during comprehensive review through Component 1: <i>Introduction.</i> <ul style="list-style-type: none"> • Mission • Principles of Community 	

<p>1.2 Educational objectives are widely recognized throughout the institution, are consistent with stated purposes, and are demonstrably achieved. The institution regularly generates, evaluates, and makes public data about student achievement, including measures of retention and graduation, and evidence of student learning outcomes. X 2.4, 2.6, 2.10, 4.2</p>		2	B/A:OA	<ul style="list-style-type: none"> To what extent are educational objectives widely recognized? How do we know? How are educational objectives shared/communicated within the institution (students, faculty, staff) as the institution grows? As an institution, need to consider how we will make public "evidence of student learning outcomes", beyond those reported in the UC Merced Profile and in keeping with our campus principles of assessment. IRDS makes data on student achievement including retention and grad available, but it is difficult to get there from any of main landing pages. Propose adding assessment/student success link on campus homepage under "About." 	<p>Evaluated during comprehensive review through Component 3: <i>Degree Programs</i> and Component 5: <i>Student Success</i>.</p> <p>Public disclosure links verified by Annual Report.</p>	
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Criteria for Review (1)	Guidelines (2)	Self-Review Rating (3)	Importance to Address (4)	Comments (5)	Evidence (Un-shaded only) (6)	Team/Staff Verification (7)
Integrity and Transparency						
<p>1.3 The institution publicly states its commitment to academic freedom for faculty, staff, and students, and acts accordingly. This commitment affirms that those in the academy are free to share their convictions and responsible conclusions with their colleagues and students in their teaching and writing. X 3.2, 3.10</p>	<p>The institution has published or has readily available policies on academic freedom. For those institutions that strive to instill specific beliefs and world views, policies clearly state how these views are implemented and ensure that these conditions are consistent with generally recognized principles of academic freedom. Due-process procedures are disseminated, demonstrating that faculty and students are protected in their quest for truth.</p>	1	C	<ul style="list-style-type: none"> Commitment is publicly stated in system-wide APM (APM – 010). Hard to know how easy it is to locate from campus. What about for staff who work with academics? Do they need/receive orientation on academic freedom? Is there existing policy for non-academic staff regard academic freedom? 	<ul style="list-style-type: none"> Academic Freedom Stated in system-wide Academic Personnel Manual (APM -010) Academic freedom for Unit 18 lecturers is provided in Article 2 of MOU with UC. Principles of Community 	

<p>1.4 Consistent with its purposes and character, the institution demonstrates an appropriate response to the increasing diversity in society through its policies, its educational and co-curricular programs, its hiring and admissions criteria, and its administrative and organizational practices. X 2.2a, 3.1</p>	<p>The institution has demonstrated institutional commitment to the principles enunciated in the WSCUC Diversity Policy.</p>	<p>1</p>	<p>A:OA</p>	<ul style="list-style-type: none"> • Campus has a clear commitment to diversity as stated in our mission, but needs to continue to focus on diversity as a campus, including in all its definitions, across all areas. • Would campus benefit from a strategic plan for diversity? 	<p>Evaluated during comprehensive review.</p>	
<p>1.5 Even when supported by or affiliated with governmental, corporate, or religious organizations, the institution has education as its primary purpose and operates as an academic institution with appropriate autonomy. X 3.6 – 3.10</p>	<p>The institution does not experience interference in substantive decisions or educational functions by governmental, religious, corporate, or other external bodies that have a relationship to the institution.</p>	<p>1</p>	<p>C</p>	<p>The University is governed by The Regents, which under Article IX, Section 9 of the California Constitution has "full powers of organization and governance" subject only to very specific areas of legislative control. The article states that "the university shall be entirely independent of all political and sectarian influence and kept free therefrom in the appointment of its Regents and in the administration of its affairs." Consistent with this, the UC Merced operates with appropriate autonomy.</p>	<p>Evaluated during comprehensive review.</p>	
<p>1.6 The institution truthfully represents its academic goals, programs, services, and costs to students and to the larger public. The institution demonstrates that its academic programs can be completed in a timely fashion. The institution treats students fairly and equitably through established policies and procedures addressing student conduct, grievances, human subjects in research, disability, and financial matters, including refunds and financial aid. X 2.12</p>	<p>The institution has published or has readily available policies on student grievances and complaints, refunds, etc. The institution does not have a history of adverse findings against it with respect to violation of these policies. Records of student complaints are maintained for a six-year period. The institution clearly defines and distinguishes between the different types of credits it offers and between degree and non-degree credit, and accurately identifies the type and meaning of the credit awarded in its transcripts. The institution's policy on grading and student evaluation is clearly stated and provides opportunity for appeal as needed.</p>	<p>1</p>	<p>C</p>	<p>Truthful information about academic goals, programs, services and costs to students is available to students and the larger public on campus websites including those of the Registrar, Student Affairs, Disability Services, Office of Student Life, Student Conduct (Student Judicial Affairs), and Financial Aid.</p>	<p>Evaluated during comprehensive review.</p> <p>Truthful representation and complaint policies evaluated during comprehensive review</p>	

Criteria for Review (1)	Guidelines (2)	Self-Review Rating (3)	Importance to Address (4)	Comments (5)	Evidence (Un-shaded only) (6)	Team/Staff Verification (7)
<p>1.7 The institution exhibits integrity and transparency in its operations, as demonstrated by the adoption and implementation of appropriate policies and procedures, sound business practices, timely and fair responses to complaints and grievances, and regular evaluation of its performance in these areas. The institution's finances are regularly audited by qualified independent auditors.</p> <p>X 3.4, 3.6. 3.7</p>		1	C	<p>UC Merced has a high level of integrity and transparency in its operations as evidenced by commitment to an appropriately resourced Office of Campus Culture & Compliance (OC3) placed within the Chancellor's Office for the highest degree of independence when evaluating campus operations. OC3 is organized to ensure coordinated independent evaluation of business processes through the Internal Audit function as well as through compliance monitoring within the Ethics & Compliance Program. Coordination of campus-wide policies and procedures has been consolidated under OC3 to enhance access to and development of local procedures. Timely and fair responses to complaints and grievances have received robust attention at UC Merced. Coordination of complaints across all functional areas at UC Merced is being carried out by OC3, with emphasis on promoting efficiencies, improving accountability, and tracking complaints and outcomes through disposition so we are better able to understand and improve culture in real time.</p>	Audits submitted with Annual Report.	

<p>1.8 The institution is committed to honest and open communication with the Accrediting Commission; to undertaking the accreditation review process with seriousness and candor; to informing the Commission promptly of any matter that could materially affect the accreditation status of the institution; and to abiding by Commission policies and procedures, including all substantive change policies.</p>		<p>1</p>	<p>C</p>	<p>UC Merced carefully attends to accreditation requirements, including those related to substantive change, with the support of the ALO and Substantive Change Coordinator. UC Merced continues to develop practices (e.g. ALO ex-officio on Graduate Council) to ensure that we abide by these expectations. When questions arise we work with WSCUC staff to gather answers and understand the implications for the campus.</p>	<p>Evaluated during comprehensive review through Component 1: <i>Introduction</i>.</p> <p>Commitments to integrity with respect to WSCUC policies are demonstrated in prior interactions with WSCUC.</p>	
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Synthesis/Reflections on Standard One

1. After completing this analysis, what are the two or three most important issues that emerged from the self-review of this Standard?

- Our mission is outdated and could benefit from revision. The Steering Committee suggested that revisions might be an outcome of the self-study process associated with re-affirmation of accreditation.
- We meet these expectations but our documentation needs to be more accessible to stakeholders. For instance, the academic freedom policy and student success data.

2. Looking overall at the quality and effectiveness of the institution's data gathering and systems to support the review process, what are institutional **strengths** under this Standard?

- The campus does a good job of collecting data that illustrates we meet to this Standard (and CFR), in fact and in spirit.

3. Looking again at the overall quality and effectiveness of the institution's data gathering and systems, what are **areas to be addressed or improved** under this Standard?

- We need to better job of making crucial information—such as, the eight guiding principles, academic freedom, commitment to diversity, and student outcomes—easily accessible to internal and external stakeholders.

Standard 2: Achieving Educational Objectives Through Core Functions

The institution achieves its purposes and attains its educational objectives at the institutional and program level through the core functions of teaching and learning, scholarship and creative activity, and support for student learning and success. The institution demonstrates that these core functions are performed effectively by evaluating valid and reliable evidence of learning and by supporting the success of every student.

Criteria for Review (1)	Guidelines (2)	Self-Review Rating (3)	Importance to Address (4)	Comments (5)	Evidence (Un-shaded only) (6)	Team/Staff Verification (7)
Teaching and Learning						
2.1 The institution's educational programs are appropriate in content, standards of performance, rigor, and nomenclature for the degree level awarded, regardless of mode of delivery. They are staffed by sufficient numbers of faculty qualified for the type and level of curriculum offered. X 3.1	The content, length, and standards of the institution's academic programs conform to recognized disciplinary or professional standards and are subject to peer review.	1.5 - UG 1.5 - Grad	A:OA	Content, length, and standards of academic programs, graduate and undergraduate conform to recognized disciplinary and professional standards. Programs are also subject to rigorous peer review, both at the time they are proposed and once every seven years via program review. Faculty: student ratios at the institutional level are in keeping with our UC peers, although ratios vary across programs. Faculty are appropriately qualified for the curriculum as vetted through faculty hiring and peer review processes and, in some cases as appropriate, administrative review. Additional faculty are needed as programs continue to grow. We are engaged in integrative planning as an institution in support of the goal of 10,000 students by 2020.	Evaluated during comprehensive review, documented in "Credit Hour and Program Length Checklist"	

Criteria for Review (1)	Guidelines (2)	Self-Review Rating (3)	Importance to Address (4)	Comments (5)	Evidence (Un-shaded only) (6)	Team/Staff Verification (7)
<p>2.2 All degrees—undergraduate and graduate—awarded by the institution are clearly defined in terms of entry-level requirements and levels of student achievement necessary for graduation that represent more than simply an accumulation of courses or credits. The institution has both a coherent philosophy, expressive of its mission, which guides the meaning of its degrees and processes that ensure the quality and integrity of its degrees.</p> <p>X 3.1 – 3.3, 4.3, 4.4</p>		<p>2 - UG 1- Grad</p>	<p>A:U - UG C - Grad</p>	<p>At the undergraduate level, entry level requirements are clearly defined and set at the system-level. Within the major and standalone minors, PLOs and associated rubrics define levels of student achievement that represent more than an accumulation of courses or credits. As an institution, we are in the process of clarifying and fully defining the meaning of the baccalaureate degree as part of our re-examination of General Education. At the graduate level, degrees are clearly defined in terms of entry level requirements as articulated in program-level policies and procedures, and the Graduate Advisor Handbook. Capstone experiences are required for masters (thesis or comprehensive exam) and PhD (dissertation); expectations associated with degree completion (PLOs, rubrics) define levels of student achievement necessary for graduation and represent more than an accumulation of courses or credits. There is a coherent philosophy that guides the meaning of graduate degrees, including learning outcomes for the Masters and PhD, and processes to ensure the quality and integrity.</p>	<p>Program descriptions in Catalog.</p> <ul style="list-style-type: none"> • UCM Catalog <p>See also program websites:</p> <ul style="list-style-type: none"> • School of Social Sciences, Humanities and Arts • School of Natural Sciences • School of Engineering <p>Also evaluated during comprehensive review through Component 3: <i>Degree Programs</i> and Component 4: <i>Educational Quality</i>.</p>	

Criteria for Review (1)	Guidelines (2)	Self-Review Rating (3)	Importance to Address (4)	Comments (5)	Evidence (Un-shaded only) (6)	Team/Staff Verification (7)
<p>2.2a Baccalaureate programs engage students in an integrated course of study of sufficient breadth and depth to prepare them for work, citizenship, and life-long learning. These programs ensure the development of core competencies including, but not limited to, written and oral communication, quantitative reasoning, information literacy, and critical thinking. In addition, baccalaureate programs actively foster creativity, innovation, an appreciation for diversity, ethical and civic responsibility, civic engagement, and the ability to work with others. Baccalaureate programs also ensure breadth for all students in cultural and aesthetic, social and political, and scientific and technical knowledge expected of educated persons. Undergraduate degrees include significant in-depth study in a given area of knowledge (typically described in terms of a program or major). X 3.1 – 3.3</p>	<p>The institution has a program of General Education that is integrated throughout the curriculum, including at the upper division level, together with significant in-depth study in a given area of knowledge (typically described in terms of a program or major).</p>	<p>3 – UG</p>	<p>A:U</p>	<p>The score of three reflects the status of GE; we are in the process of revising General Education to address the description outlined in the guideline. A process is in place to attend to student development and assessment of the core competencies for all majors through the program learning outcomes.</p>	<p>Description of General Education program with reference to Core Competencies.</p> <p>Also evaluated during comprehensive review through Component 3: <i>Degree Programs</i> and Component 4: <i>Educational Quality</i>.</p>	
<p>2.2b The institution's graduate programs establish clearly stated objectives differentiated from and more advanced than undergraduate programs in terms of admissions, curricula, standards of performance, and student learning outcomes. Graduate programs foster students' active engagement with the literature of the field and create a culture that promotes the importance of scholarship and/or professional practice. Ordinarily, a baccalaureate degree is required for admission to a graduate program. X 3.1 – 3.3</p>	<p>Institutions offering graduate-level programs employ, at least, one full-time faculty member for each graduate degree program offered and have a preponderance of the faculty holding the relevant terminal degree in the discipline. Institutions demonstrate that there is a sufficient number of faculty members to exert collective responsibility for the development and evaluation of the curricula, academic policies, and teaching and mentoring of students.</p>	<p>1 -Grad</p>	<p>B</p>	<p>See CFR 2.2. We clearly meet all aspects of this CFR, including as described in the guideline. We demonstrate this to WSCUC with every substantive review for new graduate programs. Initially, there were a number of conjoined undergraduate/graduate courses; with growth of faculty this has decreased to an appropriate number.</p>	<p>Evaluated during comprehensive review through Component 3: <i>Degree Programs</i> and Component 4: <i>Educational Quality</i>.</p>	

Criteria for Review (1)	Guidelines (2)	Self-Review Rating (3)	Importance to Address (4)	Comments (5)	Evidence (Un-shaded only) (6)	Team/Staff Verification (7)
<p>2.3 The institution's student learning outcomes and standards of performance are clearly stated at the course, program, and, as appropriate, institutional level. These outcomes and Standards are reflected in academic programs, policies, and curricula, and are aligned with advisement, library, and information and technology resources, and the wider learning environment.</p> <p>X 3.5</p>	<p>The institution is responsible for ensuring that out-of-class learning experiences, such as clinical work, service learning, and internships which receive credit, are adequately resourced, well developed, and subject to appropriate oversight.</p>	<p>1 – UG 1 -Grad (with respect to the CFR, 3 with regard to the guideline, if we choose to accept the guideline)</p>	<p>A:OA (with respect to the CFR); B with respect to the guideline.</p>	<p>As described in the CFR, this is an area strength for us. The "A" rating recognizes the need to acculturate new faculty as we continue to grow. Regarding the guideline: there are questions about resourcing for co-curricular experiences like internships or service learning that address the needs of our students specifically, e.g. financial needs, or the factors related to local context.</p>	<p>Evaluated during comprehensive review through Component 3: <i>Degree Programs</i>.</p>	
<p>2.4 The institution's student learning outcomes and standards of performance are developed by faculty and widely shared among faculty, students, staff, and (where appropriate) external stakeholders. The institution's faculty take collective responsibility for establishing appropriate standards of performance and demonstrating through assessment the achievement of these standards.</p> <p>X 4.3 – 4.4</p>	<p>Student learning outcomes are reflected in course syllabi.</p>	<p>1 – UG 2 – Grad</p>	<p>A:OA</p>	<p>By Regental authority, policy and practice, faculty are responsible for curriculum, including student learning outcomes, standards of performance, and for demonstrating through assessment student achievement of these standards. Student learning outcomes are required for approval of new courses, and appear in the syllabi of nearly all courses. At the graduate level, shared expectations for learning as reflected in systematic assessment of program outcomes that advances a shared set of standards among faculty is still evolving. The "A" rating recognizes the need to acculturate new faculty as we continue to grow.</p>	<p>Evaluated during comprehensive review through Component 3: <i>Degree Programs</i>, Component 4: <i>Educational Quality</i>, and Component 6: <i>Quality Assurance</i>.</p>	

Criteria for Review (1)	Guidelines (2)	Self-Review Rating (3)	Importance to Address (4)	Comments (5)	Evidence (Un-shaded only) (6)	Team/Staff Verification (7)
<p>2.5 The institution's academic programs actively involve students in learning, take into account students' prior knowledge of the subject matter, challenge students to meet high standards of performance, offer opportunities for them to practice, generalize, and apply what they have learned, and provide them with appropriate and ongoing feedback about their performance and how it can be improved. X 4.4</p>		<p>2 - UG 1 - Grad</p>	<p>A:U – UG A:OA - Grad</p>	<p>Rated as a 2 for the undergraduate level, because we need to address these expectations for General Education. There is also some thought that expectations for student performance, and support to help students meet those expectations, may not be uniformly high across all undergraduate programs. Some programs and courses may benefit from development in this area.</p>	<p>Evaluated during comprehensive review.</p>	
<p>2.6 The institution demonstrates that its graduates consistently achieve its stated learning outcomes and established standards of performance. The institution ensures that its expectations for student learning are embedded in the standards that faculty use to evaluate student work. X 4.3 – 4.4</p>	<p>The institution has an assessment infrastructure adequate to assess student learning at program and institution levels.</p>	<p>1.5 – UG 1.5 -Grad</p>	<p>A:OA</p>	<p>UCM has a strong academic assessment infrastructure, growing understanding of practice and use of results to inform teaching and curriculum. Student achievement of academic standards is also considered during program review. Assessment of student learning in GE is in development. At the graduate level, we need continue to attend to assessment as programs grow and new programs are added.</p>	<p>Evaluated during comprehensive review through Component 3: <i>Degree Programs</i>, Component 4: <i>Educational Quality</i>, and Component 6: <i>Quality Assurance</i>.</p>	

Criteria for Review (1)	Guidelines (2)	Self-Review Rating (3)	Importance to Address (4)	Comments (5)	Evidence (Un-shaded only) (6)	Team/Staff Verification (7)
<p>2.7 All programs offered by the institution are subject to systematic program review. The program review process includes, but is not limited to, analyses of student achievement of the program's learning outcomes; retention and graduation rates; and, where appropriate, results of licensing examination and placement, and evidence from external constituencies such as employers and professional organizations. X 4.1, 4.6</p>		<p>1 – UG 1 -Grad</p>	<p>A:OA</p>	<p>All academic and co-curricular programs are subject to program review on a seven year cycle. By policy, reviews consider student learning outcomes, retention and graduation rates. The process is overseen and coordinated by the Periodic Oversight Review Committee, which is working to strengthen periodic review as a means for advancing program and institutional goals.</p>	<ul style="list-style-type: none"> • Academic program review policies: Undergraduate, Graduate • Academic program review schedules: Undergraduate, Graduate • Student Affairs Program Review policy and schedule <p>[Description of Program Review process and calendar for academic and co-curricular units.]</p> <p>Also addressed during review through Component 3: <i>Degree Programs</i>, Component 4: <i>Educational Quality</i>, Component 5: <i>Student Success</i>, and Component 6: <i>Quality Assurance</i>.</p>	

Scholarship and Creative Activity

<p>2.8 The institution clearly defines expectations for research, scholarship, and creative activity for its students and all categories of faculty. The institution actively values and promotes scholarship, creative activity, and curricular and instructional innovation, and their dissemination appropriate to the institution's purposes and character. X 3.2</p>	<p>Where appropriate, the institution includes in its policies for faculty promotion and tenure the recognition of scholarship related to teaching, learning, assessment, and co-curricular learning.</p>	<p>2 - UG 1 - Grad 1 - Faculty</p>	<p>A:OA</p>	<p>The extent to which expectations for research, scholarship and creative activity is defined for undergraduates varies with major as described in program learning outcomes and degree overview. The institution is working to clarify this aspect of the meaning of the baccalaureate degree. These requirements are available to all faculty, Senate and non-Senate as codified in the Academic Personnel Manual (APM 210) and MOU, respectively. Instructional and curricular innovation is encouraged. Faculty are encouraged to apply for graduate training grants from funding agencies, and this activity is recognized in personnel reviews. The "A" rating recognizes the need to acculturate new faculty as we continue to grow. [Note: Recommendation by Review Team for Initial Accreditation (p.30): "In the tenure and promotion process, consider research on teaching as a standard, acknowledging the firm foundation of assessment. View this as a form of scholarship."]</p>	<p>Policies related to faculty and student research.</p> <ul style="list-style-type: none"> • Senate Faculty: APM 210 • Non-Senate, lecturing faculty: MOU
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<p>2.9 The institution recognizes and promotes appropriate linkages among scholarship, teaching, assessment, student learning, and service. X 3.2</p>		<p>2 – UG 2 - Grad</p>	<p>A:OA</p>	<p>Appropriate linkages are recognized in system-wide policy governing appointment and promotion for Senate faculty: “Superior intellectual attainment, as evidenced both in teaching and in research or other creative achievement, is an indispensable qualification for appointment or promotion to tenure positions.” (APM-210). Some non-Senate faculty also engage in scholarship on teaching, pedagogy, and assessment. However, interpretation and recognition of these expectations varies across by-law units. The campus also continues to work on recognizing assessment as part of teaching (at course and program levels). Toward this end, the Graduate Division, the Office of Institutional Assessment and the Center for Research on Teaching Excellence offer a learning community “Assessment as Pedagogy and Planning” for faculty and graduate students. Interest in the learning community increases with each offering suggesting a growing recognition of the importance of assessment/culture of assessment. The campus is also working on mechanisms for assessing mentoring in interdisciplinary context, especially across schools.</p>	<p>Policies related to faculty evaluation, promotion, and tenure.</p> <ul style="list-style-type: none"> • Senate Faculty: APM 210 • Non-Senate, lecturing faculty: MOU 	
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Criteria for Review (1)	Guidelines (2)	Self-Review Rating (3)	Importance to Address (4)	Comments (5)	Evidence (Un-shaded only) (6)	Team/Staff Verification (7)
Student Learning and Success						
<p>2.10 The institution demonstrates that students make timely progress toward the completion of their degrees and that an acceptable proportion of students complete their degrees in a timely fashion, given the institution's mission, the nature of the students it serves, and the kinds of programs it offers. The institution collects and analyzes student data, disaggregated by appropriate demographic categories and areas of study. It tracks achievement, satisfaction, and the extent to which the campus climate supports student success. The institution regularly identifies the characteristics of its students; assesses their preparation, needs, and experiences; and uses these data to improve student achievement.</p>	<p>The institution disaggregates data according to racial, ethnic, gender, age, economic status, disability, and other categories, as appropriate. The institution benchmarks its retention and graduation rates against its own aspirations as well as the rates of peer institutions.</p>	<ul style="list-style-type: none"> • 2 - UG (TTD, and degree completion) • 1.5 – Grad • 1 -both (for data collection and disaggregation, etc.) 	<p>A:U - UG A:OA – Grad and both</p>	<p>UCM's data collection efforts are sound in relation to the expectations described in this CFR. At the undergraduate level, we are actively seeking to understand barriers to completing a degree in four years in order to improve the fraction of students completing in a timely fashion. These efforts could benefit from greater coordination campus-wide. On finer scales than described in this CFR, we need to improve data gathering and use in support of student success. At the graduate level, TTD and degree completion rates are commensurate with national norms, but we strive to continue to improve. We are in the process of further systematizing data collection at the graduate level.</p>	<p>Included in Annual Report.</p> <p>Also evaluated during comprehensive review in Component 6: <i>Quality Assurance</i>.</p>	
<p>2.11 Consistent with its purposes, the institution offers co-curricular programs that are aligned with its academic goals, integrated with academic programs, and designed to support all students' personal and professional development. The institution assesses the effectiveness of its co-curricular programs and uses the results for improvement. X 4.3 – 4.5</p>		<p>UG:</p> <ul style="list-style-type: none"> • 2 (for alignment and support for all students' personal and professional development), • 3 (for integration), • 2 (for assessment and use of results) <p>Grad:</p> <ul style="list-style-type: none"> • 2 (for alignment and support for all students' personal and professional development), • 2 (for integration), • 2 (for assessment and use of results) 	<p>A:U – UG A:OA - Grad</p>	<p>At undergraduate level, co-curricular programs are designed to support all students' personal and professional development, and are aligned with academic goals. They are not, however, integrated with academic programs. At the graduate level, Student Affairs and Graduate Division are offering programs that are aligned with academic goals, and designed to support all students' personal and professional development. At both levels, co-curricular assessment is happening but not consistently.</p>	<p>Evaluated during comprehensive review.</p>	

<p>2.12 The institution ensures that all students understand the requirements of their academic programs and receive timely, useful, and complete information and advising about relevant academic requirements. X 1.6</p>	<p>Recruiting materials and advertising truthfully portray the institution. Students have ready access to accurate, current, and complete information about admissions, degree requirements, course offerings, and educational costs.</p>	<p>2 - UG 2 - Grad</p>	<p>A:U</p>	<p>UG advising is an area to strengthen, particularly with respect to ensuring <i>all</i> students understand the requirements of their academic programs and receive timely and useful information. For instance, data suggest that a significant fraction of students struggle with degree planning. At the graduate level, annual student reviews are critical to ensuring students understand and receive timely advice about degree requirements; we are working to strengthen this aspect of graduate education.</p>	<p>Evaluated during comprehensive review; documented in "Marketing and Recruitment Review" Checklist.</p>	
<p>2.13 The institution provides academic and other student support services such as tutoring, services for students with disabilities, financial aid counseling, career counseling and placement, residential life, athletics, and other services and programs as appropriate, which meet the needs of the specific types of students that the institution serves and the programs it offers. X 3.1</p>		<p>2 - UG 2 - Grad</p>	<p>B</p>	<p>UCM provides all listed services for undergraduates. We are unclear about the extent to which services are systematically assessed to ensure they meet the needs of UC Merced's students. Relevant services also exist at the graduate level, but we have additional needs, including residential life for international students in particular, and mental health services oriented for graduate students. Assessment is happening but not consistently at both levels.</p>	<p>Evaluated during comprehensive review.</p>	
<p>2.14 Institutions that serve transfer students provide clear, accurate, and timely information, ensure equitable treatment under academic policies, provide such students access to student services, and ensure that they are not unduly disadvantaged by the transfer process. X 1.6</p>	<p>Formal policies or articulation agreements are developed with feeder institutions that minimize the loss of credits through transfer credits.</p>	<p>3 (UG) 0 (Grad)</p>	<p>A:U</p>	<p>At undergraduate level, it is not clear what is working and what is not working. Transfer success is a system-wide priority.</p>	<p>Evaluated during comprehensive review through Component 5: <i>Student Success</i>. Also documented in "Transfer Credit Policy Checklist".</p>	

Synthesis/Reflections on Standard Two

1. After completing this analysis, what are the two or three most important issues that emerged from the self-review of this Standard?

Undergraduate Level:

- Clarifying the meaning of the baccalaureate degree, including as a means for contextualizing the contributions of the major, GE, and the co-curriculum. (CFR 2.2)
- Addressing all aspects of GE including its contribution to the undergraduate degree, the learning outcomes of General education, its contributions to student development of the Core Competencies, its design to cultivate intended learning outcomes, and our mechanisms for sustainably assessing student achievement of intended outcomes. (CFR 2.2a, 2.5, 2.6)
- Undergraduate advising (CFR 2.12)

Graduate

- Assessment of graduate academic programs is evolving and needs continued development to ensure meaningful, valid and reliable results on which to take action. (CFR 2.4, 2.6)
- More consistent implementation of annual reviews of student progress. (CFR 2.12)

Undergraduate and Graduate

- More systematic collection of data to assess the extent to which our services meet the needs of our students, including intended learning outcomes, and using the results for improvement. (CFR 2.11, 2.13)

2. Looking overall at the quality and effectiveness of the institution's data gathering and systems to support the review process, what are institutional **strengths** under this Standard?

With respect to Standard 2 CRF's, the evaluations above were made on the basis of available and informative evidence. This includes data/information on academic program outcomes assessment and student success metrics (at least at undergraduate level), demographics etc.

3. Looking again at the overall quality and effectiveness of the institution's data gathering and systems, what are **areas to be addressed or improved** under this Standard?

- Graduate assessment: At the graduate level, we are still building systematic review processes and data sets as programs move to standalone status. We are working toward program-level dashboards.
- Undergraduate: strengthening our ability to further disaggregate data to explain and examine patterns in IRDS data.
- Undergraduate and Graduate, Academic and Co-Curricular: We are working to improve our ability to easily track assessment activity and aggregate results at levels above the program/unit to inform planning and decision making. Data exist but need to be readily available to a broader array of constituents and would benefit with being coupled to other metrics (e.g. student success) to provide a holistic picture of student learning, student success, and support for these core institutional functions.

Criteria for Review (1)	Guidelines (2)	Self-Review Rating (3)	Importance to Address (4)	Comments (5)	Evidence (Un-shaded only) (6)	Team/Staff Verification (7)
<p>3.2 Faculty and staff recruitment, hiring, orientation, workload, incentives, and evaluation practices are aligned with institutional purposes and educational objectives. Evaluation is consistent with best practices in performance appraisal, including multisource feedback and appropriate peer review. Faculty evaluation processes are systematic and are used to improve teaching and learning.</p> <p>X 1.7, 4.3, 4.4</p>		2	A:OA	<p>The institution has established policies to ensure recruitment and hiring of faculty and staff are aligned with the mission.</p> <p>HR's Strategic Plan recognizes the long-range smart growth plans as detailed in the UCM's Workforce Planning exercise so that all hiring, training and development is integrated around a smart growth model to leverage people, skills and technology in the most efficient, effective and self-fulfilling way possible with continued focused dialogue anchored in the University's mission.</p> <p>Once on-boarded, the staff are evaluated annually with emphasize on essential functions, goals, achievements, core competencies, and professional development needs. Performance management training for supervisors is offered annually. Enhancement to our staff performance appraisal system, coupled with mandatory training and a reemphasis on overall employee training and development is a key component of the new HR Strategic Plan. Significant changes to streamline the appraisal process are underway. Institution offers cash and non-cash awards to recognize exceptional performance and innovation.</p>	<p>Faculty Handbooks</p> <p>Academic Personnel Manual (APM) and Merced Academic Personnel Policies and Procedures (MAPP)</p> <p>UC Policy PPSM 20 Recruitment</p> <p>PPSM 23 - Performance Management Policy, Performance Management Guidelines, Performance Appraisals, Employee & Supervisor Resources, Halogen.</p> <p>STAR & Innovation Awards</p>	

<p>3.3 The institution maintains appropriate and sufficiently supported faculty and staff development activities designed to improve teaching, learning, and assessment of learning outcomes. X 2.1, 2.2b, 4.4</p>	<p>The institution engages full-time, non-tenure-track, adjunct, and part-time faculty members in such processes as assessment, program review, and faculty development.</p>	<p>2</p>	<p>A:OA</p>	<p>Faculty development in support of teaching, learning and assessment of student learning outcomes is provided in several ways: through programming and resources provided by the Center for Research on Teaching Excellence (CRTE,) in the Office of Undergraduate Education and the Academic Personnel Office, and in small part by the Office of Institutional Assessment. Faculty work on program assessment is supported by assessment specialists, one per school and one at the graduate level. CRTE resources are available to all faculty, lecturing and Senate. They are also available to staff and complement professional development opportunities in assessment offered by the Division of Student Affairs.</p> <p>At an institutional level, the Periodic Review Oversight Committee (PROC) is charged with advisory and oversight responsibilities for academic and administrative assessment, annual and periodic. This includes recommending appropriate resourcing in support of assessment, and facilitating processes by which assessment practices act to align resources with academic mission, campus strategic plans, and resources.</p> <p>A score of "2" is given for several reasons: (1) in part because the CRTE is undergoing periodic review in spring 2015, including an examination of "sufficient support". (2) It also reflects the need to better integrate engagement in assessment (as teaching at course and program levels) into the tenure and promotion process. (3) Also, while lecturing faculty are involved in program review, their involvement in annual program assessment varies across programs. (4) Under PROC's guidance, we are still developing assessment processes that facilitate alignment of educational and administrative activities and resourcing with campus goals. The "A" score reflects the need to continue to attend to these needs this as the campus faculty numbers grow rapidly over the next five years in keeping with 2020 planning.</p>	<p>Policies, budgets, or other indicators of faculty development programs.</p> <ul style="list-style-type: none"> - Center for Research on Teaching Excellence Faculty Development Services - Non-Senate Faculty access to Instructional Support in MOU - Assessment specialist services for faculty and staff - PPSM 50 Professional Development Policy for Staff Members - Professional Development Programs for Staff Members - Lynda.com Access for staff and faculty 	
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Fiscal, Physical, and Information Resources

<p>3.4 The institution is financially stable and has unqualified independent financial audits and resources sufficient to ensure long-term viability. Resource planning and development include realistic budgeting, enrollment management, and diversification of revenue sources. Resource planning is integrated with all other institutional planning. Resources are aligned with educational purposes and objectives. X 1.1, 1.2, 2.10, 4.6, 4.7</p>	<p>The institution has functioned without an operational deficit for at least three years. If the institution has an accumulated deficit, it should provide a detailed explanation and a realistic plan for eliminating it.</p>	<p>2</p>	<p>A:OA</p>	<p>UC Merced's budget is based on estimated revenue expected to be received which is reviewed and adjusted to actuals throughout the year. Enrollment management is done in coordination with the University of California system as a whole and is reconciled against the long range plan for UC Merced. A tone at the top has been established and communicated campus-wide regarding current and future budget alignment with our Academic Strategic Plans, workforce planning initiatives, and our long range 2020 Project, which is a long-term strategic plan to grow the campus over the next 5 years. A long range financial plan has been developed to forecast the financial impact of the aforementioned plans. The financial plan outlines the targets that must be met for the campus to achieve financial sustainability.</p> <p>The diversification of revenue sources has been the most difficult in that the campus is in growth mode and many of the sources are not eligible to be used for capital use. Revenues received totaled \$224.8 million from a variety of sources from student tuition and fees, which accounted for 23% of total revenues, State Educational Appropriations from the State of California (47% of total revenue), auxiliary enterprises (10%), Grants and contracts (8% of total revenue), and other sources. State Educational Appropriations requires advance approval from the State of California before it can be used for capital purposes but the amount eligible is capped. As a result, a majority of the amounts are not eligible for capital use. Likewise, grants and contracts are typically not eligible for capital use. Additionally, over the last three years, the Campus has shown positive increases in the net position of the campus (i.e. no operational deficits).</p> <p>While individual campuses within the University of California do not issue stand-alone financial statements, the University of California System-wide maintains a net position (i.e. equity) of \$11.3 billion with a cash and investment portfolio totaling \$21.6 billion. Based on the</p>	<p>Audits submitted with Annual Report.</p> <p>Also evaluated during comprehensive review in Component 7: <i>Sustainability</i>.</p>	
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				official records of the UC, UC Merced share of total cash and investments totaled \$171 million with a positive net position balance of \$56 million as of June 2014. The UC, on a consolidated basis, received an unqualified opinion for the fiscal year then ended June 30, 2014 from its independent accounting firm KPMG.		
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<p>3.5 The institution provides access to information and technology resources sufficient in scope, quality, currency, and kind at physical sites and online, as appropriate, to support its academic offerings and the research and scholarship of its faculty, staff, and students. These information resources, services, and facilities are consistent with the institution's educational objectives and are aligned with student learning outcomes. X 1.2, 2.1, 2.2</p>	<p>The institution provides training and support for faculty members who use technology in instruction. Institutions offering graduate programs have sufficient fiscal, physical, information, and technology resources and structures to sustain these programs and to create and maintain a graduate-level academic culture.</p>	<p>3</p>	<p>A:U</p>	<p>UCM lacks sufficient or dedicated staffing and staff skill availability to support faculty in online course development, classroom use of technology and the use of a research cyberinfrastructure. As well, the content production and data delivery infrastructure is dated and lacks robustness, performance reliability, and standards-based installation and lifecycle. However, a new cloud-based LMS was launched in Jan 2015 that provides a solid foundation for the delivery of online course content. For spring semester 2015, approximately 376 faculty have activated an LMS course account as all grade submissions occur via this tool. At present five faculty are designing online courses per the UCOP ITLI funding and are using resources from other UC campus' for course and content development.</p> <p>Funding is in place to launch a multiyear upgrade of the campus network beginning April 2015. The IT Strategic Workforce Plan includes a request for a Director of Academic and Emerging Technology (Phase 1, launched in February 2015), along with a request for 10 staff lines to support content and course development and classroom technology support (Phase 2). The following 2 Goals are specified in the IT Strategic plan and scheduled to launch with the conclusion of Phase 1 of the IT workforce plan and the hiring of a Director of Academic and Emerging Technology: (2.1.5) Build and execute a classroom technology roadmap and (3.1.) Define vision for technology for teaching and learning. A Cyberinfrastructure external review occurred in March 2015 and we are waiting for final recommendations. Two proposals were submitted on 22 March, 2015 to NSF Solicitation 14-521 CC*DNI (Campus Infrastructure - Data, Networking, and Innovation) for funding to support faculty research computing needs.</p>	<p>Evaluated during comprehensive review.</p>	
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Criteria for Review (1)	Guidelines (2)	Self-Review Rating (3)	Importanc e to Address (4)	Comments (5)	Evidence (Un-shaded only) (6)	Team/Staff Verification (7)
Organization Structures and Decision-Making Processes						
3.6 The institution's leadership, at all levels, is characterized by integrity, high performance, appropriate responsibility, and accountability.		1	C	The institution has assembled a leadership team that is committed to high performance goals and aspirations as evidenced by the launch of the Academic Focusing Initiative, workforce planning and the 2020 Project.	Evaluated during comprehensive review.	
3.7 The institution's organizational structures and decision-making processes are clear and consistent with its purposes, support effective decision making, and place priority on sustaining institutional capacity and educational effectiveness.	The institution establishes clear roles, responsibilities, and lines of authority.	2	A:OA	<p>The institution has well defined organizational structures to facilitate shared governance as evidenced by the establishment of the Periodic Annual Review Committee (PROC). PROC is a committee, co-chaired by the Provost and the Vice Chair of the Academic Senate, includes faculty and administrative representation. It was established to consolidate Academic and Administrative Reviews to reaffirm the shared governance concept. Under the leadership of the Vice Chancellor for Business and Administrative Services, the university's administration has undertaken a comprehensive workforce planning process to ensure the organizational structure facilitates efficient service and effective decision support structures.</p> <p>One area of potential improvement concerns the duties and responsibilities of Bylaw Unit chairs. Currently, unit chairs have responsibility for many duties outlined in APM 245, but the final authority for decision-making in those areas rests with the school deans. Over the next several years, the university could evolve to better align responsibility with authority for functions that reside respectively with the deans and unit chairs.</p>	Evaluated during comprehensive review in Component 7: <i>Sustainability</i> .	
3.8 The institution has a full-time chief executive officer and a chief financial officer whose primary or full-time responsibilities are to the institution. In addition, the institution has a sufficient number of other qualified administrators to provide effective educational leadership and management.		1	C	The institution has assembled a solid leadership team who display the ability to provide effective educational leadership and management. The Chancellor serves as the full-time chief executive officer and Vice Chancellor of Planning and Budget serves as the chief financial officer. Both are accountable to the campus and serve as part of the Senior Management Group of the University of California.	Position Descriptions for CEO, CFO.	

<p>3.9 The institution has an independent governing board or similar authority that, consistent with its legal and fiduciary authority, exercises appropriate oversight over institutional integrity, policies, and ongoing operations, including hiring and evaluating the chief executive officer. X 1.5 – 1.7</p>	<p>The governing body comprises members with the diverse qualifications required to govern an institution of higher learning. It regularly engages in Self-review and training to enhance its effectiveness.</p>	<p>1</p>	<p>0</p>	<p>The University is governed by The Regents, which under Article IX, Section 9 of the California Constitution has "full powers of organization and governance" subject only to very specific areas of legislative control. The article states that "the university shall be entirely independent of all political and sectarian influence and kept free therefrom in the appointment of its Regents and in the administration of its affairs." There is an annual review of the CEO by conducted by the President.</p>	<p>University of California Board of Regents, membership and biographies.</p> <p>Board of Regents Standing Committees and Membership</p> <p>Bylaws of the Board of Regents</p> <p>Academic Senate Policy on Review of Chancellors</p>	
<p>3.10 The institution's faculty exercises effective academic leadership and acts consistently to ensure that both academic quality and the institution's educational purposes and character are sustained. X 2.1, 2.4, 2.5, 4.3, 4.4</p>	<p>The institution clearly defines the governance roles, rights, and responsibilities of all categories of full- and part-time faculty.</p>	<p>1</p>	<p>C</p>	<p>The institution has established governance structures through the Standing Orders of the Regents that outline the responsibilities clearly. In addition, the structures are also outlined in the Bylaws of the UCM Academic Senate.</p>	<p>Faculty governing body charges, bylaws and authority:</p> <p>Standing Orders of the Regents of the UC</p> <p>Bylaws of the UC Academic Senate</p> <p>UC Merced Academic Senate</p>	

Synthesis/Reflections on Standard Three

1. After completing this analysis, what are the two or three most important issues that emerged from the self-review of this Standard?

- While UC Merced has outlined clear roles and responsibilities for its administration and administrative structures, there is a need to further define the academic administrative structure. UCM has strategically decided to establish a multi-disciplinary structure; however, there is need to have some clear lines of responsibility in the context of the traditional departmental structure while still preserving the unique nature and synergistic benefits of a multi-disciplinary organization.
- The institution has deployed several strategic initiatives for mapping out the future of UCM through its Strategic Academic Focusing Initiative, the Workforce Planning initiative and the 2020 Project (Physical Planning initiative). The development of the Campus Financial plan consolidates the work of the aforementioned plans into a financial viability and sustainability plan.
- Given that UC Merced prides itself on being the first university of the 21st century, the need for additional support of IT infrastructure and workforce plan was highlighted as critical area for improvement. UCM lacks sufficient/dedicated staff with the skills to support faculty in online course development, classroom use of technology and the use of a research cyberinfrastructure. As well, the content production and data delivery infrastructure is dated and lacks robustness, performance reliability, and standards-based installation and lifecycle. While funding is in place to launch a multiyear upgrade of the campus network beginning April 2015, there is still a need to address the workforce needs for IT.

2. Looking overall at the quality and effectiveness of the institution's data gathering and systems to support the review process, what are institutional **strengths** under this Standard?

An area of strength, showcased in this process, is that the institution employs faculty and staff with substantial and continuing commitment to the institution. Through its hiring practices, and commitment to excellence in teaching, the institution employs a diverse faculty and staff and it provides for continued professional development. Also the institution has launched a several long range planning initiatives to ensure that the campus is able to deliver its mission of teaching and research through excellence in academia, workforce and physical resources. While these plans are still in development, the institution plans to integrate the plans for a comprehensive deployment in the near future.

3. Looking again at the overall quality and effectiveness of the institution's data gathering and systems, what are **areas to be addressed or improved** under this Standard?

One area that is both a high priority for the institution, and needs significant development, is the provision and access to information and technology resources. This important focus area is linked to our institutional needs to enhance the institution's ability to utilize data gathered to improve programmatic success. As mentioned in the review Standards 2, and 4, the UC Merced generally has effective data gathering processes; however, data resides in a significant number of data systems, which makes the process of enabling cross-referenced data analytics challenging. Therefore, the consolidation of data systems to enable effective development of the institution's data warehousing capabilities are also important.

Review under WSCUC Standards

<p>Provide the institution's consensus rating for columns 3 and 4; add comments as appropriate in column 5. For un-shaded cells in Column 6, delete text and provide links or references to evidence in support of findings. Column 7 is for staff and teams to verify documentation and for teams to comments on evidence.</p> <p><u>Self-Review Rating</u> 1= We do this well; area of strength for us 2= Aspects of this need our attention 3= This item needs significant development 0= Does not apply</p> <p><u>Importance to address at this time</u> A:U= High priority – Urgent A:OA = High priority – Ongoing attention needed in light of 2020-related growth. B= Medium priority C= Lower priority 0= Does not apply</p>	<p style="text-align: center;">Institutional Information</p> <p>Institution: University of California, Merced</p> <p>Type of Review: ® Comprehensive for Reaffirmation</p> <p>Date of Submission: ____/____/____ Mo Day Year</p> <p>Institutional Contact: Laura Martin, ALO</p>
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Standard 4. Creating an Organization Committed to Quality Assurance, Institutional Learning, and Improvement
The institution engages in sustained, evidence-based, and participatory self-reflection about how effectively it is accomplishing its purposes and achieving its educational objectives. The institution considers the changing environment of higher education in envisioning its future. These activities inform both institutional planning and systematic evaluations of educational effectiveness. The results of institutional inquiry, research, and data collection are used to establish priorities, to plan, and to improve quality and effectiveness.

Criteria for Review (1)	Guidelines (2)	Self-Review Rating (3)	Importance to Address (4)	Comments (5)	Evidence (Un-shaded only) (6)	Team/Staff Verification (7)
Quality Assurance Processes						
4.1 The institution employs a deliberate set of quality-assurance processes in both academic and non-academic areas, including new curriculum and program approval processes, periodic program review, assessment of student learning, and other forms of ongoing evaluation. These processes include: collecting, analyzing, and interpreting data; tracking learning results over time; using comparative data from external sources; and improving structures, services, processes, curricula, pedagogy, and learning results. X 2.7, 2.10		2	A:OA	UC Merced employs a set of quality assurance process. Examples include new curriculum approval process, new program approval process, periodic program review, teaching evaluation by students, etc. However, the dissemination of information is limited. Additionally, how to meet the academic services and curriculum development needs to reflect our students or our growth, is an area for improvement.	Evaluated during comprehensive review in Component 6: <i>Quality Assurance</i> and Component 7: <i>Sustainability</i> .	

Criteria for Review (1)	Guidelines (2)	Self-Review Rating (3)	Importance to Address (4)	Comments (5)	Evidence (Un-shaded only) (6)	Team/Staff Verification (7)
4.2 The institution has institutional research capacity consistent with its purposes and characteristics. Data are disseminated internally and externally in a timely manner, and analyzed, interpreted, and incorporated in institutional review, planning, and decision-making. Periodic reviews are conducted to ensure the effectiveness of the institutional research function and the suitability and usefulness of the data generated. X 1.2, 2.10		2	B	In 2014, Institutional Research and Decision Support underwent periodic review with a focus on the development of a collaborative service. There is a sense that data are generated, but data need to be made available to all faculty and staff in a timely manner, and clear pathways to acquire data need to be developed.	Evaluated during comprehensive review in Component 6: <i>Quality Assurance.</i>	
Institutional Learning and Improvement						
4.3 Leadership at all levels, including faculty, staff, and administration, is committed to improvement based on the results of inquiry, evidence, and evaluation. Assessment of teaching, learning, and the campus environment—in support of academic and co-curricular objectives—is undertaken, used for improvement, and incorporated into institutional planning processes. X 2.2 – 2.6	The institution has clear, well-established policies and practices—for gathering, analyzing, and interpreting information—that create a culture of evidence and improvement.	2	A:U	Improvements as a result of inquiry, evidence and evaluation are not readily implemented, as more focus is placed on research, it takes precedent over assessment of teaching. Better evidence of co-curricular effectiveness needs to be developed beyond satisfaction and participation data.	Evaluated during comprehensive review through Component 3: <i>Degree Programs,</i> Component 4: <i>Educational Quality,</i> Component 6: <i>Quality Assurance,</i> and Component 7: <i>Sustainability.</i>	

Criteria for Review (1)	Guidelines (2)	Self-Review Rating (3)	Importance to Address (4)	Comments (5)	Evidence (Un-shaded only) (6)	Team/Staff Verification (7)
<p>4.4 The institution, with significant faculty involvement, engages in ongoing inquiry into the processes of teaching and learning, and the conditions and practices that ensure that the standards of performance established by the institution are being achieved. The faculty and other educators take responsibility for evaluating the effectiveness of teaching and learning processes and uses the results for improvement of student learning and success. The findings from such inquiries are applied to the design and improvement of curricula, pedagogy, and assessment methodology. X 2.2 – 2.6</p>	<p>Periodic analysis of grades and evaluation procedures are conducted to assess the rigor and effectiveness of grading policies and practices.</p>	1	A:OA	<p>UCM has a strong, faculty-owned, academic assessment infrastructure, growing understanding of practice and use of results to inform teaching and curriculum. The teaching evaluation performed by students is a good process for faculty to sustain or improve their teaching quality. Curriculum committees, Undergraduate Council and Graduate Council together play good roles in keeping our courses in high quality. Evaluation of programs is achieved through two processes: (1) student evaluations, in which student feedback provides a basis for change in the classroom regarding improvements in curriculum and pedagogy; (2) coupled annual program learning outcomes assessment and program review processes that focus on student learning results in support of program improvement.</p>	<p>Evaluated during comprehensive review in Component 6: <i>Quality Assurance</i> and Component 7: <i>Sustainability</i>.</p>	
<p>4.5 Appropriate stakeholders, including alumni, employers, practitioners, students, and others designated by the institution, are regularly involved in the assessment and alignment of educational programs. X 2.6, 2.7</p>		2	A:OA	<p>The School of Engineering has appointed Board of Advisors comprised of professionals that provide guidance to the educational programs. UCM's alumni population is now sufficiently large and advanced to contribute to advisory boards and they should be added as a means of connecting UCM's growing campus community to external stakeholders. Plans to develop other advisory boards are underway. Both graduate and undergraduate students have voiced concern that their request for courses and program topics go unheard.</p>	<p>Evaluated during comprehensive review in Component 6: <i>Quality Assurance</i> and Component 7: <i>Sustainability</i>.</p>	

Criteria for Review (1)	Guidelines (2)	Self-Review Rating (3)	Importance to Address (4)	Comments (5)	Evidence (Un-shaded only) (6)	Team/Staff Verification (7)
4.6 The institution periodically engages its multiple constituencies, including the governing board, faculty, staff, and others, in institutional reflection and planning processes that are based on the examination of data and evidence. These processes assess the institution's strategic position, articulate priorities, examine the alignment of its purposes, core functions, and resources, and define the future direction of the institution. X 1.1, 1.3		2	B	Continued growth of the university requires the institution to continually reconsider its direction, which requires input from faculty, staff, and administrators. While the rapid growth and pace of decision making often limits the frequency of engaging all these constituencies, improvement in campus-wide engagement in planning is needed.	Evaluated during comprehensive review in Component 6: <i>Quality Assurance</i> and Component 7: <i>Sustainability</i> .	
4.7. Within the context of its mission and structural and financial realities, the institution considers changes that are currently taking place and are anticipated to take place within the institution and higher education environment as part of its planning, new program development, and resource allocation.		2	A:OA	This process needs to occur throughout the continued rapid growth of the university. For example, the recent curtailment of undergraduate admissions was a smart response given the space and financial restrictions given the current growth rate.	Evaluated during comprehensive review in Component 6: <i>Quality Assurance</i> and Component 7: <i>Sustainability</i> .	

Synthesis/Reflections on Standard Four

1. After completing this analysis, what are the two or three most important issues that emerged from the self-review of this Standard?

- Effectively using the data collected to inform decisions, from course improvements, to program updates, to campus planning.
- Engaging the multiple constituency groups to both provide valuable data points on the institution and to help inform strategic planning.
- Rapid growth and development of the campus requires thoughtful, data informed planning to best direct new programs and growth of current efforts.

2. Looking overall at the quality and effectiveness of the institution's data gathering and systems to support the review process, what are institutional **strengths** under this Standard?

- The structures are in place to engage various constituency groups.
- The tools exist and data are collected on all levels of the campus experience.
- The processes to perform annual assessment review and periodic program review are in place and help ensure on-going quality review of academic programs, student services, and administrative operations.

3. Looking again at the overall quality and effectiveness of the institution's data gathering and systems, what are **areas to be addressed or improved** under this Standard?

- The paths to access institutional data points are not apparent.
- The lack of transparency on data informed decision-making generates skepticism that such activity occurs.
- The engagement of campus constituents in planning needs to be broadened and deepened.

The information provided below is excerpted from the script Provost Dorr used on April 9, 2015 to describe, for planning purposes only, the President's decision as to use of the 2015-16 3% salary pool for ladder faculty. The 3% salary increase was approved by the Regents in November. A final decision as to activation of the 3% increase will be made once the current budget deliberations have been completed. There are some details still to work out on how to define exceptional merit and how to implement the plan for faculty on the Health Sciences Compensation Plan (HSCP).

Main Points of the Salary Program

- The regular merit program continues.
- In addition, campuses will budget for a salary pool consisting in 3% salary of the on-, off-, and above-scale dollars for faculty who are not on a Health Sciences Compensation Plan (HSCP).
- 1.5% of the 3% should be allocated for a 1.5% increase in the scale (base salary) and also a 1.5% increase in the off-scale for ladder faculty through Professor IX, all effective July 1, 2015. Above scale ladder faculty should also receive a 1.5% increase effective July 1, 2015.
- For faculty in the HSCP, the 3% pool is calculated on the X and X' dollars and the 1.5% increase applies to the X and X' components of their compensation.
- The remaining 1.5% of the budgeted 3% increase should be used only for four purposes, for ladder faculty with active appointments as of July 1, 2015.

Equity. Equity is the quality of being impartial, reasonable, fair, just. In this circumstance, equity is considered with respect to faculty salary, what it is, how it compares to others' salary, and how it was determined. As appropriate, campuses should draw from their recent faculty salary equity studies in identifying issues of equity in individual faculty member salaries.

Compression. Compression occurs when faculty members at lower rank/step have salaries that are almost as large as those of faculty at higher rank/step.

Inversion. Inversion occurs when faculty members at lower rank/step have salaries that are larger than those of faculty at higher rank/step.

Exceptional merit. Exceptional merit is identified by such factors as an acceleration of at least one step beyond that which would ordinarily occur at the faculty member's review, advancement to the next step at least two years earlier than the normative time, and/or receipt of a highly selective, highly prestigious academic award in one's field. Thus, exceptional merit may be tied to the regular review process in the case of some accelerations or early advancements. In any case considered to be exceptionally meritorious, the campus will need to explain the amount of the merit action that is beyond a normal action (and that, as a consequence, may be included in the 1.5% discretionary pool). Other faculty members not in this year's review cycle may also fit under the exceptional merit category.

- The discretionary 1.5% should NOT be used for regular merit, recruitment, and retention.
- The discretionary program will be effective July 1, 2015. If the salary decisions are made too late for the July 1, 2015 date, the increments should be retroactive to July 1, to the extent possible. The entire discretionary pool should be allocated by the end of December 2015.
- Consultation, according to campus practice, with the Academic Senate on handling of the 1.5% discretionary pool is strongly advised.
- Campuses will be asked to produce a report on the discretionary uses of the 1.5% pool. An explicit accounting will be due by the end of January 2016. Details will follow, but versions of the report will be shared with the Academic Senate leaders and UCOP, at a minimum.

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May 13, 2015

To: Mary Gilly, Chair, Systemwide Academic Senate
From: Jian-Qiao Sun, Chair, Merced Division Council
Re: Proposed Revisions to Senate Bylaw 182 -UCIE

On March 9, 2015, the Merced Division of the Academic Senate was asked to opine on the *Proposed Revisions to Senate Bylaw 182, University Committee on International Education*. The Division Council solicited comments from the Senate and School Executive Committees and received comments from the Committee on Research, the Undergraduate and Graduate Councils. Committee comments are appended to this memo.

We appreciate the opportunity to opine.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Sun".

Jian-Qiao Sun, Chair
Division Council

CC: Hilary Baxter, Executive Director, Systemwide Academic Senate
Division Council
Committee on Research
Undergraduate Council
Graduate Council
Senate Office

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May 4, 2015

To: Jian-Qiao Sun, Chair, Division Council

From: David C. Noelle, Chair, Committee on Research (COR)

A handwritten signature in cursive script that reads "David C. Noelle".

Re: Proposed Revisions to Senate Bylaw 182 (University Committee on International Education)

COR reviewed the proposed revisions to Senate Bylaw 182 which expands the functions of the UCIE. The committee holds that this bylaw revision would greatly strengthen the Senate's contribution to the establishment of collaborative agreements that are aligned with campus research priorities. COR is therefore pleased to endorse the revision.

COR appreciates the opportunity to opine.

cc: Division Council
COR Members
Senate Office

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May 4, 2015

Jian-Qiao Sun, Chair, Academic Senate

Re: UGC Comments on the Proposed Revisions to Senate Bylaw 182

The Undergraduate Council unanimously endorsed the proposed revisions to Senate Bylaw 182, put forward by the University Committee on International Education, expanding the charge of that committee.

Sincerely,

A handwritten signature in blue ink that reads "Jack L. Vevea".

Jack Vevea
Chair, Undergraduate Council

Cc: UGC Members
DivCo Members
Senate Office

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KATHLEEN HULL, CHAIR

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May 13, 2015

To: Jian-Qiao Sun, Senate Chair

From: Kathleen Hull, Chair, Graduate Council (GC)

Re: Review of Proposed Revisions to Senate Bylaw 182

In response to the request from Division Council, Graduate Council (GC) completed its review of the proposed revisions to Senate Bylaw 182 pertaining to the University Committee on International Education. Given the expansion of UC education with international aspects, such as increasing international scholars (which predominate in graduate school), and international research by UC graduate students, the proposed clarification of the Senate's role in governance of said activities seems prudent. GC endorses the proposed revisions.

GC appreciates the opportunity to opine.

Cc: Division Council
Graduate Council
Academic Senate Office

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May 12, 2015

To: Mary Gilly, Chair, Systemwide Academic Senate

From: Jian-Qiao Sun, Chair, Merced Division Council

Re: Review of Proposed Guidelines on Accepting and Managing Equity Return for Access to University Facilities or Services

The Merced Division Council solicited comments from all Senate Standing and School Executive Committees on the proposed *Guidelines on Accepting and Managing Equity Return for Access to University Facilities or Services* and has received comments from the Committee on Faculty Welfare, Diversity and Academic Freedom, the Graduate Council, and the Committee on Research, appended to this memo.

We appreciate the opportunity to opine.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Sun", is written over a faint, stylized graphic element.

Jian-Qiao Sun, Chair
Division Council

CC: Hilary Baxter, Executive Director, Systemwide Academic Senate
Division Council
FWDAF
GC
COR
Senate Office

Encl. FWDAF Memo to DivCo (3/18/15)
GC Memo to DivCo (4/29/15)
COR Memo to DivCo (5/1/15)

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COMMITTEE ON FACULTY WELFARE, DIVERSITY & ACADEMIC FREEDOM
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March 18, 2015

To: Jian-Qiao Sun, Chair, Division Council

From: Rudy Ortiz, Chair, Committee on Faculty Welfare, Diversity, and Academic Freedom (FWDAF)

A handwritten signature in black ink, appearing to read "Rudy Ortiz", is placed below the "From:" line.

Re: Guidelines on Accepting and Managing Equity in Return for Access to University Facilities and/or Services

FWDAF endorses the guidelines for equity for access to university facilities and/or services and appreciates the opportunity to opine.

cc: FWDAF members
Division Council members
Senate office



ACADEMIC SENATE, MERCED DIVISION
GRADUATE COUNCIL (GC)
KATHLEEN HULL, CHAIR

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April 29, 2015

To: Jian-Qiao Sun, Senate Chair

From: Kathleen Hull, Chair, Graduate Council (GC)

Re: **Review of Proposed Guidelines on Accepting and Managing Equity Return**

In response to the request from Division Council, Graduate Council (GC) has completed its review of the proposed revisions to the Guidelines on Accepting and Managing Equity in Return for Access to University Facilities and/or Services. GC offers the following comments:

- The draft policy identifies the designated campus manager (DCM) as the individual with authority and responsibility for the business and financial arrangements of equity agreements. GC is concerned, however, that there is not equal clarity with respect to identifying or designating an individual or body that is responsible for academic oversight in the establishment and monitoring of such agreements. That is, GC suggests that the policy consider responsibility for academic issues—especially with respect to graduate students—in negotiation of equity agreements.
- The draft policy makes frequent reference to the responsibilities of *employees* operating under equity agreements, but GC is concerned that the policy is less clear about the rights and responsibilities of *graduate students* in such circumstances. Are graduate students (always) considered employees? What are the potential implications of work as original contributions versus the products of an employee? GC recommends that the policy stipulate the rights and responsibilities of graduate students who participate in roles other than as employees. This may include consideration of if or how former graduate students involved in a project carried out under an equity agreement may benefit from the distribution of equity (Section VI.C).
- GC understands that equity agreements may be entered into, in part, to facilitate graduate education and student success. Therefore, GC recommends that the policy make clear how intellectual property of graduate students and the rights of graduate students to publish on projects undertaken through equity agreements are to be protected.
- Since campuses vary in administrative structure, GC recommends that references to the “conflict of interest committee” be rephrased as “the office or committee with oversight of conflict of interest.”
- Finally, GC is concerned that equity agreements may decrease funding for graduate students that would be available through other types of partnership agreements. Therefore, GC suggests that this issue be considered as an element of the decision to enter into such an agreement or during negotiation of an equity agreement.

GC appreciates the opportunity to opine.

Cc: Divisional Council
Graduate Council
Academic Senate Office

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May 1, 2015

To: Jian-Qiao Sun, Chair, Division Council

From: David C. Noelle, Chair, Committee on Research (COR)

A handwritten signature in cursive script that reads "David C. Noelle".

Re: Guidelines on Accepting and Managing Equity in Return for Access to University Facilities and/or Services

COR has reviewed the proposed guidelines on accepting and managing equity in return for access to university facilities and/or services.

COR is concerned with Part IV. C. 2. which states "The support of new businesses affiliated with the University is in the public interest and furthers the University's training and educational objectives." This section does not indicate who determines whether a given business affiliation further advances the UC's educational objectives nor is there mention of which individual or body would adjudicate any conflict of interest. Finally, COR notes that the proposed policy does not provide for Academic Senate oversight and so recommends that an annual report is submitted to the Senate each year.

COR appreciates the opportunity to opine.

cc: COR Members
DivCo Members
Senate Office

**GUIDELINES ON ACCEPTING AND MANAGING EQUITY IN RETURN FOR ACCESS TO
UNIVERSITY FACILITIES AND/OR SERVICES**

/__/2015

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DRAFT

I. INTRODUCTION

Across the nation, universities are being asked by their external stakeholders to be an active participant in the entrepreneurial and innovation ecosystem. One element of this participation is supporting new businesses created by students, staff and faculty and/or based on university-developed inventions. Campuses are creating incubators and accelerators where new companies can begin to develop business or product development plans.

A common element of non-university incubators or accelerators is the ability to accept equity in the companies as an element of the financial consideration for access to space and business support services. On June 20, 2014, President Napolitano authorized the University to initiate a pilot program whereby the University may accept equity in a company as full or partial consideration for access to University facilities and/or services (“AFS”) in the context of University Incubators or Accelerators. This document provides guidelines to campuses seeking to develop new programs or modify existing programs to take advantage of this pilot. Through this pilot, the University seeks to understand if and how any permanent program could or should be operated and what, if any policy changes will be needed to formally enact it. The guidelines seek to provide a systematic and consistent framework for campuses to implement the pilot so that it can both be effective in its implementation and provide meaningful feedback for determining the basis upon which to formally enact certain or all aspects of the pilot as conceived in one or more modalities as implemented by campuses.

This pilot program has been created so that the university can understand how to best manage this issue, based on the experiences of campus-based programs that participate. These guidelines are designed to ensure that any program does not create unmanageable risk, either directly for the program, or for the University. This pilot program will run for three years, at which time the Office of the President will evaluate the outcomes and determine if and/or how to codify this pilot program into University Policy.

II. REFERENCES

A. Policies, Principles and Guidelines

University of California Policy on Disclosure of Financial Interests and Management of Conflicts of Interest Related to Sponsored Projects, October 15, 1997.

University Policy on Integrity in Research, June 19, 1990.

University Policy on Disclosure of Financial Interests & Management of Conflicts of Interest, Public Health Service Research Awards

Principles of Delegation of Authority and Protocol
(http://policy.ucop.edu/files/da/da_definitions.html)

Summary Statement of Principles and Policies on Institutional Conflict of Interest in
Research (<http://www.ucop.edu/raohome/cgmemos/11-05.pdf>)

B. State of California Government Code

California Political Reform Act, Government Code Sections 81000-91015.

California Fair Political Practices Commission, Political Reform Act of 1974 - 2015

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III. DEFINITIONS

Designated Campus Manager (“DCM”)	In accordance with the Principles of Delegation of Authority and Protocol (http://policy.ucop.edu/files/da/da_definitions.html), each campus shall identify and grant delegated authority to the Designated Campus Manager (DCM) to 1) execute AFS agreements wherein approval to accept equity may be required, 2) ensure compliance with system-wide guidelines and policy, and 3) request formal equity acceptance approval from the Executive Director of Innovation Alliance and Services. In accordance with these Guidelines, for the benefit of consistency, and in compliance with state, federal, and institutional requirements, each campus may wish to identify a single position title for its (DCM.)
Equity:	Shares of common or preferred Stock, Warrants, options, convertible instruments, units of a limited partnership or limited liability company (“Units”), or any other instrument conveying ownership or economic interest in a corporation, limited partnership, limited liability company or other business entity.
Incubator or Accelerator	A UC-designated physical location where UC-associated startup companies can start commercial ventures.
Innovation Alliances and Services (“IAS”)	The University-wide office within the Office of the President responsible for coordinating, facilitating, and reporting on the University’s technology commercialization program.
IAS Equity Approval Manager (“EAM”)	The individual designated by IAS to have responsibility for managing Equity approvals.
Laboratory:	The U.S. Department of Energy’s Lawrence Berkeley National Laboratory.
Stock:	An equity or ownership interest in a corporation. Its unit of measurement is the share, and the owner is entitled to certain rights in the company pursuant to its status as a Stock holder whether pursuant to law or contractually agreed upon rights, as well as distribution of assets upon liquidation or dissolution of the company. Ownership of Stock may be evidenced by a written instrument known as a stock certificate.

Stockholder's Agreement	An agreement or agreements (separate from any other agreement) that sets forth the rights and duties of the holder of Equity and the company with regard to the Equity being held, including such issues as registration rights, transfer rights, dilution considerations, future rights, co-sale and rights of first refusal, special voting rights, etc.
Warrant	A contract or agreement that gives the holder the right to subscribe for, purchase or otherwise acquire shares of the underlying Stock or convertible securities for a specified price and within a specified time period.

IV. EQUITY GUIDELINES

A. Scope

The AFS pilot program shall be limited to campus created and authorized Incubator and Accelerators. These guidelines apply to transactions related to early stage businesses/companies with issued Equity in the form of Stock or Units or those that intend to issue Equity in the form of Stock or Units that are: a) founded by the University's faculty, staff, and/or students or having a defined relationship to the University based on the affiliation of its founders, and b) advancing academic innovations wherein campus management grants such companies (a "Company") access to their local campus Incubator or Accelerator facilities and services. These guidelines also apply to the Department of Energy's (DOE) Lawrence Berkeley National Laboratory to the extent that there is no conflict with the obligations of the University under its management and operating contracts with the DOE. These guidelines are intended to support the implementation of the AFS pilot program. Note that each participating campus and the Laboratory is expected to designate a DCM who has the relevant experience with and knowledge of startup equity transactions, complex financial instruments and University policy so as to be able to develop its own procedures by ways of standard templates consistent with these guidelines and to allow for the acceptance of equity in return for access to University resources, in compliance with University policies and applicable law. Appendix F highlights some material items that should be considered by the DCM when preparing internal procedures and forms to implement the pilot.

B. Accepting Equity

The University may accept Equity in Companies to support recently organized or incorporated businesses that arise from or have relationships to the University based in part on the affiliation of their founders. The acceptance of Equity for AFS is subject to the provisions of these guidelines:

1. A portion of the financial consideration may be provided in the form of cash, taking into account the financial condition and structure of the Company and the specific elements of the campus programs under which the Equity is accepted.
2. The University's preference is to take Equity in the form of Stock, Units or similar securities that are fully paid for rather than Warrants or options which are a right to later purchase securities of a company at a predetermined price. Acceptance of options or Warrants may be approved on a case-specific basis by exception. At a minimum, approval for such exception will require that 1) private funding (e.g., not state funding) is available and reserved to provide cash needed to exercise such options or Warrants and 2) the options or Warrants comprise a minority portion of total financial consideration. In addition, prior arrangements would need to be made by the campus to manage the rights and interests of all involved parties in such options or Warrants.
3. The DCM should be aware that there are strict rules under the tax laws that prohibit certain "private use" of tax-exempt bond-financed space or equipment by private individuals or entities. In order to avoid such private use issues in connection with the AFS pilot program, the Accelerator or Incubator should not be financed, in whole or in part, with the proceeds of tax-exempt debt. In specific circumstances the University may permit limited private use of tax-exempt bond-financed space or equipment by a private party participating in the program provided the DCM can demonstrate in advance to the satisfaction of the University that such use is in compliance with rules allowing for a limited percentage of space to be set aside for private-use and that such private-use will not jeopardize the tax-exempt status of any bonds. The DCM should contact the individual at the campus, Laboratory or University who is responsible for maintaining its tax-exempt bond financing records to determine whether such space or equipment falls within this prohibition.

C. Conflict-of-Interest and "Private-Benefit" Considerations

1. University acceptance of Equity for AFS shall be based upon the educational, research, and public service missions of the University over financial or individual personal gain.
2. The support of new businesses affiliated with the University is in the public interest and furthers the University's training and educational objectives. Further, University

- engagement with new businesses is appropriate and represents a useful contribution because the University's engagement with industry is consistent with the University's mission. Any involvement of University employees, however, must be in accordance with the California Political Reform Act of 1974 ("Act"), federal law and regulations, and University policy.
3. Because University employees may have the opportunity to influence University decisions in ways that could lead to personal gain or give advantage to companies in which they have a financial interest, the employees must be aware of and be in compliance with the relevant state and federal laws and regulations and University policies.. Generally, University employees are prohibited from "making, participating in making or influencing a University decision," if they have a disqualifying personal financial interest in the decision, unless certain specific actions are taken. Disclosure of financial interests, institutional review and management of conflicts of interest may also be required.
 4. In order to comply with the Act, the Designated Campus Manager ("DCM") must ensure that any University employee, unless specifically permitted under University Conflict of Interest Policy and the California Political Reform Act, with a current or likely future interest in the Company is excused from, does not to participate in, and does not influence or attempt to influence any decision involving Equity acceptance for AFS. A sample communication to the employee is provided in Appendix A.
 5. The University's status as a Section 501(c)(3) organization could be jeopardized if it provides more than "incidental" benefits to any private party. To help avoid such "private benefit" issues as well as conflicts of interest in the University's decision making, accusations of favoritism, misuse of University resources and other related legal issues, campuses should establish and have documented a uniform methodology for determining the amount of equity in lieu of cash consideration for University resources in a manner that ensures the University is receiving fair or equivalent value for the resources provided. The amount of equity (i.e., number of shares) in lieu of cash for University resource(s) provided to a company would be determined by dividing (i) the fair market cash value for access to University resource(s) provided by (ii) the price per Unit of the Company (as reasonably determined in good faith by the DCM in accordance with the provisions of these guidelines) at the time the equity transaction was sought. If a uniform methodology for valuing University resource(s) is not established or is not used in a particular case, the DCM must have documents showing how the fair value of any University resource(s) provided was calculated and provide an affirmative written statement of what cash consideration would otherwise be due and that the Equity accepted in lieu of cash is deemed by the DCM's independent and

good faith assessment to be fair or equivalent in value to the resource(s) provided. For assistance with the foregoing, the DCM is strongly encouraged to discuss in advance their methodology with the EAM to ensure that it meets all policy and legal requirements. See Appendix F for additional information that may be useful to a DCM when addressing the fair market valuation issues described above.

D. Board Representation / Voting Rights

Employees of the University, acting in their capacity as University employees, shall not accept a position on the board of directors in a Company in which the University has an Equity interest pursuant to this program, nor shall they exercise related voting rights, but may accept and exercise observer rights on such boards. Active board participation and/or the exercise of voting rights by an individual in his or her capacity as a University employee might expose the University to unacceptably large management, conflict of interest, and public relations problems. A University employee who is an inventor of intellectual and tangible property licensed by the University to a Company may participate on the scientific advisory board of that Company, but only if such boards do not have delegated voting authority to act independently on behalf of the full board of directors.

E. Future Relationships with Company

The University shall manage all subsequent relationships with a Company in which the University has accepted Equity at arms-length and in a fair manner pursuant to relevant University policies and guidelines.

The University has an affirmative obligation to prevent “pipelining” of inventions (intellectual property) to a Company in which the University holds an Equity interest. For example, University inventions should be made available for licensing to appropriate companies and should not automatically be made exclusively available to Companies in which the University has taken Equity under this pilot. At the same time, holding Equity in a Company should not preclude the Company from licensing any invention when that Company is best able to develop the successor inventions

F. Company-Sponsored Product Testing

A University investigator may perform clinical trials or other comparable product-testing involving human subjects for Companies in which the University holds Equity as part of an AFS transaction on the campus/Laboratory where that technology arose provided that the campus conflict of interest committee has assessed any real or perceived organizational conflict of interest in the performance of such trials or testing activities and determined

whether a management plan is required, and the relevant IRB has reviewed and approved the protocol.

G. Determining How Much Equity to Accept

The University must ensure that it is receiving fair or equivalent value as consideration for University resources accessed by a company in accordance with the provisions set forth in Section V.C.5 and Appendix F of these guidelines. At the same time, the University shall not accept a level of Equity that places it in a controlling position of a company, since such a situation may expose the University to unacceptable management, conflict of interest, and public relations and other problems. Generally, the University's Equity holdings in a publicly traded company shall be less than ten percent (10%).

For a privately-held company (startup), the University's initial equity ownership can sometimes be greater than 10% (especially where such entity is only recently formed) as that the expectation is that that ownership stake will be diluted over time by subsequent rounds of financing, etc. Accordingly, the DCM may request approval to accept more than 10% equity in a privately-held company (startup,) but less than twenty percent (20%) (in the aggregate, cumulative from all transactions including but not limited to G-44, this AFS pilot, and as calculated on a fully diluted and as converted basis) provided there is a clear expectation of subsequent dilution to less than a ten percent (10%) share ownership at the time the company goes public.

A DCM considering taking Equity in a Company must review the total percentage preexisting ownership, if any, the University may already hold in the company through other transaction arrangements, including any technology licensing-related arrangements (G-44). IAS will maintain on a restricted-access basis, a listing of Companies in which the University holds such Equity interests, the name of campus from which the service or access-related transaction arose, and other relevant information. The DCM should consult the EAM who will provide the most current information regarding any other University Equity holding in that Company.

V. APPROVAL OF EQUITY ACCEPTANCE.

A Required Approvals

In addition to the Office of the President approvals listed below, campuses are responsible for creating standardized procedures to ensure that relevant campus offices review and approve

the transaction.

1. Acceptance of an Equity interest in a Company shall be in accordance with these guidelines and upon the case-specific approval requests submitted by the DCM, review by the Office of the General Counsel, and approval by the Executive Director of IAS. In the course of supporting the equity acceptance approval review process, the EAM may provide guidance and make recommendations to the DCM concerning legal and policy issues related to the acceptance of Equity. Upon request of the DCM, the EAM may also provide recommendations to the DCM concerning any business issues related to the acceptance of an Equity request.
2. Office of General Counsel (“OGC”) review and approval as to legal form must be obtained for all agreements and documents related to the University’s acceptance of Equity. No preliminary legal reviews of the agreement would obviate the need for formal review and approval as to legal form of Equity acceptance of the entire proposed final agreement.
3. A campus-designated conflict of interest committee shall review agreements and, if appropriate, recommend management plans to the DCM, who shall submit verification of this review and management plan, if any, with the request for approval to accept equity submitted to IAS.
4. Consideration of requests for any required legal and Equity approval will be managed by IAS. IAS will consider such requests using the process described in Sections B through E, below.

B. Submission to IAS

DCM requests for approval to accept equity shall be submitted to:

Innovation Alliances and Services
University of California
Office of the President
1111 Franklin Street, 5th Floor
Oakland, CA 94607-5200

ATTN: Equity Approval Manager

C. Contents of Submission

A completed Equity Approval Request Checklist (Appendix B) should be submitted with the DCM's request for approval of Equity acceptance along with relevant and required documentation referenced therein.

D. Requests for Exceptions

Any requests for deviations from these guidelines should be submitted in writing by the DCM to the EAM. Upon review, written authority to proceed (if accepted) will be provided by the Senior Vice President - Finance or the appropriate designee.

E. Timing of Submission

The DCM should allow sufficient time after IAS receipt of all the information provided under Section C and D, above, for IAS, legal and policy reviews in support of the Senior Vice President's or the appropriate designee's consideration of an Equity approval request. Normally, if forms submitted by the DCM are complete and approved by OGC, IAS will have approved the request to accept Equity within 10 business days. Requests for approval should be submitted to IAS when the terms of an agreement are negotiated for such Equity acceptance, even if pursuant to the agreement, the actual delivery of Equity shares may come at some later point in time. However, preliminary informal discussions with the EAM concerning AFS related transaction terms and Equity arrangements are strongly encouraged to expedite subsequent formal review and approval.

F. Where to Send Equity and Corporate Actions

1. University Shares

Regents Bylaw 21.4(c) states, "The Chief Investment Officer shall be the custodian of all bonds, stocks, notes, contracts of sale, mortgages, and deeds of trust for real property held or acquired for investment purposes, and all other securities belonging to the Corporation ... and shall keep them in such places and in such manner as shall be approved by the Committee on Investments."

Therefore, Equity interests in Companies, including Stock certificates, Unit certification, options, and Warrants, due to The Regents pursuant to the terms of an AFS transaction agreement shall be issued by the Company to The Regents' nominee

name of “Shellwater & Co.” and delivered to the DCM. The DCM shall forward such Equity, together with the completed University Acceptance of Equity Form (Appendix C) to:

Office of the Chief Investment Officer of
The Regents of the University of California
1111 Broadway St., 14th floor
Oakland, CA 94623-1000

ATTN: Director, Treasury Operations

A copy of the University Acceptance of Equity Form, with attachments, shall be sent by the DCM to the IAS as follows:

Innovation Alliances and Services
University of California
Office of the President
1111 Franklin Street, 5th Floor
Oakland, CA 94607-5200

ATTN: Equity Approval Manager

3. Corporate Actions

All correspondence received by the DCM from the Company concerning Company actions (including, without limitation, shareholder or member voting actions and notices, merger notifications, meeting notices, etc.) resulting from the University’s Equity interest in the Company should be forwarded to the Office of the Chief Investment Officer (“CIO”) at the address listed above.

VI. CHIEF INVESTMENT OFFICER’S MANAGEMENT OF EQUITY

A. General

1. All decisions and administrative actions concerning the management of Equity issued to the University by a Company and all subsequent corporate or other entity actions received by the DCM pertaining to the University’s shareholder, membership or other interest in a Company shall be made by and at the sole discretion of the CIO. This

includes decisions on when Equity will be converted to cash and when options, Warrants and similar convertible securities will be exercised. No consideration shall be given to Company information uniquely available to the University through its AFS pilot. The CIO intends to carry out such functions using the Equity Management Model (Appendix D) or other processes as the CIO may approve, based upon sound business practice and publicly available information. Such functions shall be consistent with the guidelines in this Bulletin.

2. At least monthly, the CIO shall notify the EAM and the EAM in turn shall notify the DCM of all significant actions taken by the CIO, including those involving purchase, distribution, or transfer of Equity, and those involving Company mergers, acquisitions, and similar change of control transactions or name changes.
3. Any decision made by the CIO to purchase additional shares of Equity in a Company in which the University has accepted Equity as part of an AFS transaction should be evaluated in terms of the financial return to the University. Such subsequent investments should be considered and maintained separately from the original AFS-related arrangement and the resulting proceeds from such subsequent investments shall not be considered for distribution under the University Equity Policy.

B. Valuation

1. The CIO shall record the value of Equity issued to the University by a Company
2. Upon transmittal of such Equity to the CIO, the DCM shall provide the CIO with its good faith and reasonable estimate of the valuation of such Equity using Appendix C, University Acceptance of Equity Form unless stock has been obtained at par value in which case par value will be communicated to the CIO by the DCM.

C. Distribution of Equity Interests to the Campus or Laboratory

1. The University's Equity interests received directly pursuant to the AFS program will be converted to cash and distributed to the Campus or Laboratory in accordance with Section 2, below.
2. Upon conversion to cash of the University's Equity interests received directly pursuant to the AFS program, the CIO shall instruct Corporate Accounting to transfer such cash proceeds to the appropriate Campus or Laboratory account and provide the Campus or Laboratory with appropriate identifying information. For clarification purposes, any additional Equity subsequently purchased by the University or University affiliates or assignees of participation rights related to such Equity (with such purchase occurring

pursuant to the exercise of any assigned participation or other rights, or otherwise) that is liquidated by the CIO will remain the property of such subsequent purchaser and will not be distributed to the campus or Laboratory that acquired the initial Equity pursuant to the AFS program. Each Campus or Laboratory obtaining Equity interests in a third party should use reasonable efforts to obtain participation rights for the University or University affiliates or assignees in future rounds of financing undertaken by such third party.

3. The Campus or Laboratory's subsequent use and distribution of its portion of any cash proceeds shall be handled in accordance with the schedules, formulas, and practices established by the Campus or Laboratory, and other applicable policies.

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APPENDIX A

Sample Notice to employees: Prior to the University accepting equity in a company pursuant to this pilot, the DCM shall give this notice to any and all campus or Laboratory employees with a current or likely future interest in a Company considered to be a party to an AFS transaction, to ensure any such University employee is excused from, does not to participate in, and does not influence or attempt to influence any decision involving the Equity acceptance for AFS under consideration. This notice may be excerpted or adapted by campuses or Laboratories for their own use as they may choose.

What University Employees Need to Know about Conflicts of Interest with respect to the University accepting Equity in companies in which they may have a substantial financial or controlling interest in return for Access by the company to University Facilities and/or Services
(March , 2015)

The University of California’s policy on conflicts of interest provides that none of the University’s “faculty, staff, managers, or officials shall engage in any activities which place them in a conflict of interest between their official activities and any other interest or obligation.” In addition under UC policy, University faculty and staff must comply with state statutes and regulations governing conflicts of interest, specifically the Political Reform Act of 1974-2015 (the Act).

The Act requires public officials to “perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them.” (Gov. Code, § 81001, subd. (b)). Accordingly, University employees must not allow their personal financial interests to influence their or other’s University decisions regarding the provision of access to University facilities and/or services to a Company.

Any University employee with a current or likely future interest in the Company **must** excuse him or herself from and not to participate in any University decision making process as to whether to accept Equity from that Company. The DCM must also confirm to the University that no University employee with a current or potential financial interest in the Company in any way participated in or influenced the transaction decision-making process. University employees who are the sole owners or who have sole control of the Company may communicate with the University decision makers so long their communications are in the same manner as is afforded to any member of the public.

APPENDIX B

EQUITY APPROVAL REQUEST CHECKLIST

Please complete, attach supporting documentation, and submit this Appendix-B (Equity Approval Request Checklist) to IAS to formalize your request for approval to accept equity as consideration for an AFS transaction. Any deviations from the guidance provided in the University of California Guidelines: Accepting and Managing Equity in Return for Access to University Facilities and/or Services document should be separately noted and justified as an exception for consideration by the Executive Director, IAS.

Please note that in carrying out space/facility access, equipment use, and/or service transactions, the Designated Campus Manager (“DCM”) is called upon to make decisions by applying his or her professional judgment and experience when considering of a multiplicity of facts and circumstances surrounding each transactions. The DCM’s transaction records should include appropriate documentation supporting assessments and representations made on the Equity Approval Request Checklist.

Please submit the completed checklist with appropriate documentation to:

Innovation Alliances and Services (IAS)
University of California
Office of the President
1111 Franklin St., 5th Floor
Oakland, CA 94607-6090
ATTN: Equity Approval Manager

Basic UC Identification Information

Campus: _____

DCM Contact: _____

DCM: _____

Phone Number: _____

Company Information

Company: _____

Address: _____

City: _____ State: _____ Zip: _____

Status of Company: Privately Held Inventor Start-Up

(Check all that apply) Pre-Start-Up Start-Up Other

If "Other," please describe:

In those cases where all agreements are not available (usually due to the early stage of the Company formation), indicate the location of specific language in the agreements related to the draft or executed transaction agreement that allows the University to terminate the agreement or renegotiate the terms to eliminate the equity consideration or replace it with other consideration.

Please list:

DCM used the following method to determine the fair market value for Equity received by the University pursuant to the AFS program:

For Common Stock:

- Recent 409A valuation or other third party valuation
- Most recent option issuance price
- Recent sales or issuance price
- For early –stage startups where the above is not available, stock par value for recently issued founders’ shares
- Other based on DCM reasonable determination as made in good faith (Please describe or, if there are any specific questions, call IAS to discuss):

For Equity other than Common Stock (eg, Preferred Stock, Units, etc):

- Recent third party valuation
- Recent sales price
- Other based on DCM reasonable determination as made in good faith (Please describe or, if there are any specific questions, call IAS to discuss): _____

Policy Issues

a. Accepting Equity

- i. Indicate the form of equity and up-front cash considerations for AFS transaction (Check all that apply):

Up-Front Cash (if any)

Amount: \$

Stock

Shares/Type (including class and series):

Other (please describe):

- ii. Please identify the University Department and funding source that will forgo all or partial cash payment by accepting instead the proposed equity considerations and indicate how such University Department intends to cover or recoup the cost of such services, facilities or equipment.

b. Use of Facilities or Services Involving Tax-free bond

Will the Company be granted access to facilities constructed or maintained, equipment purchased or maintained, or services made possible due to funding from the sale of tax-free bonds (i.e. Lease Revenue Bonds) ?

No

Yes

If Yes, please complete the following;

The bond(s) involved is (are) _____

Percentage used over the lifetime of the bond is _____%

Name, title, and contact information of the campus person responsible for the managing tax-free bond 'use' is

c. Conflict of Interest Considerations

- i. Has the DCM given notice (Appendix-A) to any and all campus or Laboratory employees with a current or likely future interest in the subject Company, to ensure any such University employee is excused from, does not to participate in, and does not influence or attempt to influence any decision involving the Equity acceptance for AFS under consideration?

Yes

No

If "No" please provide an explanation why this action has not occurred:

- ii. Did any University employee who may have had or was to likely to have any financial interest from decisions relating to taking equity in Company pursuant to the transaction described participate in or attempt to influence the University this transaction

No

Yes

- iii. If the above response was "Yes", did the campus-designated conflict of interest committee review the reported financial interest(s) and determine whether a management plan should be implemented?

No

Yes

- iv. By submitting, the DCM certifies that he or she understands and accepts that the Office of the Chief Investment Officer shall manage equity received under this Policy using a “rule-based” equity disposition management model in liquidating stocks.

d. Other University Relationships with Company

Does the University already hold equity in the proposed Company?

(Refer to <https://patron.ucop.edu/equity/equity.html> and/or other records)

No

Yes

If “Yes” please

i) indicate the following:

- The cumulative total # of shares currently held by the University: _____;

- The number of shares to be provided by Company under the proposed transaction: _____; and

The type of shares to be accepted: Preferred Common

Series: _____

- The total number of shares outstanding by the Company: _____;

- The cumulative percentage of ownership in Company to be held by the University (includes currently held shares and shares to be accepted under the proposed transaction): _____%; and

ii) discuss whether this was a factor in DCM’s decision to consider accepting equity in the Company under the present transaction agreement.

e. Transaction Terms

Are the transaction agreement terms, other than those relating to equity, consistent with standard

terms in non-equity agreements for University like transactions for space/facility access, equipment use and/or services?

Yes

No

If “No” please identify and justify any non-standard terms:

f. Percentage of Ownership

i. Total number of Company’s outstanding shares of capital stock (include information on each class and series of outstanding Equity securities as well): _____

ii. The percentage of ownership in Company to be held by the University (on the basis of total outstanding Equity securities and on a class and series basis where applicable): _____%

iii. For start-up Companies, will the University’s holdings be greater than 19.5%

No

Not applicable

Yes

If “Yes” please discuss the timing and extent of anticipated dilution of the University’s interest to below the 19.5% cap established by the University Equity Policy:

Additional information

Please provide any additional information or comments that IAS should consider in evaluating this request for approval to accept equity:

APPENDIX C

UNIVERSITY ACCEPTANCE OF EQUITY FORM

(Revised 08/01/2014)

To: *Director, Treasury Operations*
Office of the Chief Investment Officer
Address: 1111 Broadway, 14th Floor
Oakland CA, 94607
Phone: (510)987-9668

From:					
Originating Office	<input type="checkbox"/> UCSF	<input type="checkbox"/> UCB	<input type="checkbox"/> UCD	<input type="checkbox"/> UCI	<input type="checkbox"/> UCLA
	<input type="checkbox"/> UCSD	<input type="checkbox"/> UCM	<input type="checkbox"/> UCR	<input type="checkbox"/> UCSB	<input type="checkbox"/> UCSC
	<input type="checkbox"/> LBNL				
Transaction Contact: _____			Phone: _____		

Subject: Acceptance of Equity as full or partial consideration for

Space use Equipment Use Service provided

Please accept the enclosed stock certificate, as described below, for the above referenced transaction. These equity interests should be managed pursuant to the University Equity Guidelines for Facility Access and Services.

Company Name:	_____
Legal Address:	_____

Company Contact:	_____ Phone: _____

Total number of shares transmitted: _____

DCM has determined in good faith that a reasonable valuation per share for the Treasurer to book these shares is:

Value of \$ _____

Please attach rationale for this valuation

_____ Default valuation (e.g. \$.10 per share)

Are there restrictions on the future transfer or sale of this stock?

_____ No

_____ Yes, SEC Rule 144

_____ Yes, Other _____

Does the transaction include provisions for additional equity to be issued to the University?

___ Yes ___ No.

If yes, attach explanation.

Attachments:

___ Stock certificate

___ Approval Letter

___ Agreement under which equity is accepted

___ Other equity-related documents

Designated Campus Manager Signature

Date

DCM Election of a Longer Term Position in Company

The equity disposition management model will allow the campus/Laboratory DCM to make a one-time, irrevocable election to take a longer-term position on the final 25% of the University's equity holdings in a particular Company, on a case-by case basis. Such a longer-term position would be for a fixed period of time ranging from 2-5 years (to be determined at the time of such election) from initiation of disposition under the "rule-based" model employed by the Treasurer's Office, including any inventor shares being held by the Office of the Chief Investment Officer of The Regents.

Please indicate your election below (the default selection is indicated below should the DCM fail to indicate a choice):

± **(Default)** The DCM does NOT elect to take a longer-term position on the final 25% of the University's equity holdings herein submitted to the Treasurer's Office.

± The DCM does elect to take a longer-term position on the final 25% of the University's equity holdings herein submitted to the Treasurer's Office for a term of

(select one of the following):

- ± 2 years
- ± 3 years
- ± 4 years
- ± 5 years

from initiation of disposition under the "rule-based" model employed by the Office of the Chief Investment Officer of The Regents.

APPENDIX D

Equity Management Model (Revised 8/5/2014)

Summary

Securities accepted per request from Designated Campus Manager (“DCM”) are submitted to the Office of the Chief Investment Officer of The Regents (“OCIO”) for management in accordance with the provisions of the University’s Guidelines on Accepting Equity for Facility Access or Services. Such securities usually carry some restriction or a “lock up” period restricting when the OCIO is free to sell the shares. The OCIO will handle all corporate actions, restriction removals, and registration activities until the securities qualify for transfer to the Depository Trust Company (“DTC”) whereby the securities would have an established market value and are re-registered free and clear (without the restrictions). The OCIO, at its discretion, may solicit feedback from the Office of the General Counsel and the DCM regarding such actions.

Once the securities are DTC-qualified, the OCIO will use the following “rule-based” equity disposition management model in liquidating stocks resulting from approved University Access to Facility or Services transactions:

- 1) 50% of the security will initially be sold at the first available opportunity;
- 2) 25% of the shares will be sold approximately six months later; and
- 3) the remaining 25% will be sold approximately six months after that unless the DCM has previously elected to take a longer term as provided for in Appendix C.

This disciplined strategy reflects the Treasurer’s preferred approach to capturing, on balance, reasonable value from the class of securities typically received under a licensing-related transaction.

Should the DCM wish to capture a portion of the longer-term potential value of equity received under a University Access to Facility and Service transaction, the OCIO’s equity disposition management model will allow the DCM the option of making a one-time, irrevocable election to take a longer-term position on the final 25% of the University’s equity holdings in a particular transaction, on a case-by case basis.

Such a longer-term position would be for a fixed period of time ranging from 2-5 years (to be determined at the time of such election) from initiation of disposition under the “rule-based” model and would apply to the final 25% remaining shares of equity held by the OCIO. This one-time election can be exercised by the DCM by indicating its preference on the University Acceptance of Equity Form Access to Facility and Service when the equity is initially transferred to the OCIO.

Responsibilities

Designated Campus Manager (“DCM”)

- Negotiate, have approved, and have executed Transaction agreement
- Secure local and UCOP/IAS approvals to accept equity
- Transmit stock certificates to the Office of the Chief Investment Officer of The Regents
- in good faith, determine reasonable value of equity received by the University and to be held by OCIO

UCOP/Innovation Alliances and Services (“IAS”)

- Provide policy guidance to the DCM
- Provide equity approval consideration
- Coordinate administrative processes between IAS and OCIO

Office of the General Counsel (“OGC”)

- Review and, if acceptable, approve all signature documents (legal form)

Office of the Chief Investment Officer (“OCIO”)

- Manage equity portfolio
- For unregistered stock in equity portfolio:
 - Remove restrictions from stock certificates
 - Re-register stock certificates
 - Manage corporate actions for unregistered stock certificates
 - secure legal review of documents
 - solicit feedback from DCM at OCIO’s discretion
- For DTC-qualified stock in equity portfolio:
 - Implement the “rule-based” equity disposition management model

APPENDIX E

PROCEDURES

Equity Acceptance Review Process

1. Designated Campus Manager (“DCM”) negotiates the terms of access agreements after consultation with and sign-off from any campus officials with requisite delegated authority.
2. DCM requests from IAS approval to accept Equity as consideration for access to space, equipment use and/or services. Requests for approval to accept Equity should be forwarded to the Equity Approval Manager (“EAM”). Such requests **must**:
 - a) Be submitted directly by DCM (or, alternatively, by an individual designated in writing by the DCM).
 - b) State that any potential conflict of interest issues have been addressed by the campus.
 - c) State that the deal adheres to the Guidelines on Accepting Equity for Facility Access and/or Services.
 - d) Include a fully completed Equity Approval Request Checklist for Facility Access and/or Services.
 - e) Include all relevant documents (*e.g.*, copy of transaction agreements, Stockholder’s Agreement, Stock Purchase/Issuance Agreements, any existing agreements the company may have with the University, or other relevant legal agreements/documents. All agreements requiring signature from UC managers (legal forms) must be reviewed and approved in writing by the Office of the General Counsel (“OGC”).
3. EAM responds to indicate that request has been received, and reviews documentation to ensure that it is complete.
 - a) If after initial review there is information missing, whether the requested acceptance should cause The Regents to hold more than **19.5%** of the Company’s total capitalization of the company at the time of approval or more than 10% of a company upon its initial public offering (as determined on an as converted and fully-diluted basis), or there is a need for clarification, EAM writes back to DCM indicating so.
 - b) If no information missing and no clarification required, EAM sends all documentation for written approval from Executive Director, IAS.

4. If approved, Executive Director sends a letter to DCM indicating that the request for Equity approval has either been accepted, or that the acceptance is conditional (in which case any changes required are outlined in the letter). Message from Executive Director IAS will further include a copy of the University Acceptance of Equity Form, and a request that the form be used when accepting Equity. Any Equity issued to The Regents must be in the nominee name “Shellwater & Co.”, and the actual Stock certificates issued, as well as any stockholder information received, should be forwarded directly to the Office of the Chief Investment Officer of The Regents (with a copy of the transmittal to Executive Director’s attention). Copy of any amendments to any related agreement(s) should be sent to the attention of the Executive Director, IAS.
5. Normally, if forms submitted by the DCM are complete, accurate and with all legal forms approved, IAS will approve the request to accept Equity within 10 business days.

Notes:

1. Contacts at Innovation Alliances and Services (IAS):
William Tucker, Executive Director, 1111 Franklin St., Suite 5100
william.tucker@ucop.edu; 510-587-6037
John Shih, Equity Approval Manager, 1111 Franklin St., Suite 5110
john.shih@ucop.edu; 510-587-6034
2. Contacts at the Office of the Chief Investment Officer:
Trevor Woods, Investment Accountant: 1111 Broadway St., Suite 1400
trevor.woods@ucop.edu ; 510-987-0859
Robert Yastishak, Director, Treasury Operations: 1111 Broadway St., 14th Floor
robert.yastishak@ucop.edu; 510-987-9668

APPENDIX F

SUMMARY OF SOME MATERIAL ISSUES FOR CAMPUS AND LABORATORY CONSIDERATION WHEN PARTICIPATING IN THE PROGRAM TO ACCEPT EQUITY AS CONSIDERATION FOR ALLOWING ACCESS TO UNIVERSITY FACILITIES AND/OR SERVICES

Pursuant to the Guidelines on Accepting and Managing Equity in Return for Access to University Facilities and/or Services (the “Guidelines”), the University is rolling out a pilot program pursuant to which participants in the program may accept equity in recently organized or incorporated Companies affiliated with the University as full or partial consideration for access to authorized Incubators or Accelerators and the University resources offered by such Incubators or Accelerators. As per the Guidelines, each program participant is expected to develop its own procedures and forms to allow for the acceptance of equity in return for access to University resources. To help ensure the success of the program, as well as protection of the University’s interests, the following is a non-exhaustive list of some identified issues that program participants should address at the outset. Program participants should still carefully review the entire set of Guidelines before accepting equity in exchange for providing access to University facilities, equipment or services.

1. Bond Financed Space and Equipment

There are strict rules under the tax law restricting certain “private use” of tax-exempt bond-financed space or equipment by a private party (e.g., a for-profit corporation or private individual). In order to avoid such private use issues in connection with the AFS pilot program, the strong preference of the University is to not permit a private party to use any of its space or equipment that has been financed, in whole or in part, with the proceeds of tax-exempt debt. In limited circumstances the University may permit limited private use of tax-exempt bond-financed space or equipment provided the DCM can demonstrate in advance to the satisfaction of the University that such use is in compliance with rules allowing for a limited percentage of space to be set aside for private-use and that such private-use will not jeopardize the tax-exempt status of any bonds. A program participant should contact the individual at the campus, Laboratory or University who is responsible for maintaining its tax-exempt bond financing records if it is not sure whether University space or equipment falls within this prohibition.

2. Private Benefit

The University’s status as a Section 501(c)(3) organization could be jeopardized if it provides more than “incidental” benefits to any private party. To address this “private benefit” concern, the Guidelines require a University program participant either to ensure: (1) that it receives at least fair market value for the goods or services it provides to any private party or, (2) where the fair market value for generalized or incidental services provided by a University program participant to a private party cannot be reasonably ascribed, that a formulaic and fair process

applied on a reasonable and consistent basis among all third-party startup companies be used. This may be a difficult undertaking given that the valuation of the equity in a recently organized or incorporated typically would be negligible. With regard to valuation of shares of a startup corporation that is issuing common stock, the fair market value per share of common stock most likely would either be (i) the price any company options are being issued at, since those need to be issued at fair market value under Internal Revenue Code (“IRC”) and many existing companies will either have a board determination or third party IRC Section 409A valuation noting the current fair market value for the common stock which would be valid until the earlier of one year from the date of the valuation or occurrence of a material event such as a third party financing, etc. or (ii) the latest price at which stock was issued to the founders or that any friends and family investor just paid for such stock (which is most likely the par value or some fraction of a penny for a startup corporation that has recently been formed)(such amount being the “Current FMV”). The University understands that determination of valuation is more complicated with regard to companies that are not corporations or in which a University program participant is taking preferred stock where a third party is not setting the pricing for such stock, but expects a University program participant to use good faith efforts to make a reasonable valuation determination.

Program participants may find it useful to work together with each other, the Innovation Alliances and Services (“IAS”) group and Office of General Counsel (“OGC”) to establish alternatives or a formal process to adequately address this issue. Additionally, a program participant may find the following non-exhaustive list of potential financing options helpful when establishing its own procedures to ensure the University is receiving fair value in return for resources it provides to third party participants in the AFS program:

- Charge cash for the space and services provided. A flat amount of equity in the company could also be part of this transaction. It would be prudent to have a slight corresponding reduction in the cash amount charged for the space equal to the Current FMV per share if that can be determined, or at least the par value, to show a payment of at least par value for that Equity.
- Rather than accepting only cash for the space and services, subject to compliance with applicable finance lender laws, take a note or convertible note with a principal amount equivalent to the value of the space and services provided. The note would need to have a reasonable rate of interest which can be determined based on the then current applicable federal rate or AFR (<http://apps.irs.gov/app/picklist/list/federalRates.html>). Similar to above, additional common stock in the company could be taken at the time the note is issued pursuant to a warrant or direct issuance of stock (with a minor adjustment to the note amount to reflect the value of any common stock that is issued outright to ensure that par value at least has been paid in).

- Accept equity in the form of a convertible security (such as the “YC SAFE”, “KISS forms” championed by 500 Startups: <http://500.co/kiss>) with a reasonable rate of interest at the AFR where applicable. Such a convertible security would convert at a later time upon a triggering event such as a change of control or third party financing that values the company. Similar to a convertible debt security, additional common stock in the company could be taken at the time the note is issued pursuant to a warrant or direct issuance of the same (with a minor adjustment to the convertible security amount to reflect the value of any common stock that is issued outright to ensure that par value at least has been paid in).
- With regard to startups where the fair market value for generalized or incidental services cannot be readily determined, a University program participant may consider accepting a flat percentage of equity in such startups based on what is market consideration for other incubators operating in a similar region or space or providing similar services and resources; provided, the University program participant has made a determination that any such flat percentage arrangement is arrived at pursuant to a formulaic and fair process and such process is applied on a reasonable and consistent basis to all similarly-situated startups. This is important to ensure that the University receives reasonable compensation for the space, resources and/or services it provides. A University program participant may wish to consult with OGC in making such determination..
- The following fictitious example is included solely to demonstrate what may constitute a formulaic and fair process that would be applied on a fair and consistent basis to all similarly- situated startups where the value of University services offered cannot be readily determined. Assume that a campus incubator offers all newly-formed startups accepted into its program with the same service and resource package and 250 square feet of campus incubator space. In this example, the campus may choose to take a flat amount of equity in each newly-formed startup (such as 2% of the startup, with such amount to be tied to relevant market research of what other similarly situated incubators typically charge for similar resources and services, and such amount to be updated on a regular basis). For a newly formed startup using 500 square feet of campus space and other standard incubator services, a campus might take twice as much equity calculated on a flat percentage basis (or 4% of the startup as per the example). The square footage and percentage equity amounts in the prior example are fictional and solely for purposes of example only.

3. Unrelated Business Income

It is possible that income distributions associated with the University’s equity interest in certain entities could generate unrelated business taxable income (“UBTI”). Any UBTI that is generated needs to be tracked and reported in accordance with University policies and procedures. Investments in entities taxed as “c” corporations that produce dividends generally should not generate UBTI. Investments in Companies that are formed as LLCs, partnerships or

“s” corporations that distribute income may generate UBTI to the extent any such entity generates operating income from the active conduct of a trade or business (i.e., income is not subject to an exception from UBTI under the tax law, e.g., is not merely a “passive” investment) Whether an investment may generate UBTI requires additional review of the facts and circumstances and may delay the ability of IAS to internally approve an investment. As such, use of the corporate form for newly established start-up entities (especially those intending to seek venture financing or exit pursuant to a change of control, merger or public offering) is encouraged.

4. IAS and OGC Review

Each program participant is encouraged to establish a uniform set of agreements which would allow, among other benefits, for the ability of the IAS and OGC to more efficiently review any requests from a program participant to accept equity in accordance with the Guidelines.

Incubators in the private arena have established various customary sets of form that are generally accepted in the accelerator/incubator market space. Such forms (especially those such as a convertible equity or convertible debt security that defer the valuation of a startup until the occurrence of a significant trigger event such as a third party financing or change of control) may be an ideal starting point for the drafting of University forms. If appropriately used, these forms may also be useful in addressing the fair market valuation issue described above.

5. Operational Considerations

Each campus should consider issues of a general operational nature that may arise as a result of participating in the program. The following are a few high level concerns that have been expressed and will require a program participant to consult its advisors with assistance with addressing these and other relevant concerns:

- Facilities – Need to (i) confirm leased space is actively being used for its intended purpose; (ii) address the University’s ability to remove a tenant and any resulting impacts an early removal would have on equity delivered in advance of the completion of the rental term; (iii) address concepts such as security deposit, utilities and insurance for matters that occur on the leased premises; and (iv) determine the form of agreement that will be used to address the above (i.e., simple lease, professional services agreement, or some similar form of agreement).
- Equipment – Where applicable, need to (i) ensure that Company service providers using University equipment are properly trained on such equipment; (ii) set clear usage guidelines to ensure that there is not an expectation of unlimited use or use that interferes with existing University obligations; and (iii) establish procedures to monitor equipment use, among others.



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Chair of the Assembly of the Academic Senate
Faculty Representative to the Regents
University of California
1111 Franklin Street, 12th Floor
Oakland, California 94607-5200

May 5, 2015

AIMÉE DORR
PROVOST AND EXECUTIVE VICE PRESIDENT
UNIVERSITY OF CALIFORNIA

Re: UC Policy on Copyright and Fair Use – Final Review

Dear Aimée,

At its April 29 meeting, the Academic Council unanimously endorsed the revisions to [UC Policy on Copyright and Fair Use](#) that you recently circulated for Final Review. Council also received comments from the UCI and UCSB Senate divisions that are appended to this letter.

Council is pleased that the new draft responds directly to the Senate's June 2014 request that the Policy take a more assertive stance in advocating for the faculty's Fair Use rights to copyrighted materials. Council welcomes the inclusion of the statement that the University will defend employees who use copyrighted materials in the good faith belief that they are doing so in compliance with the law. Council also appreciates the inclusion of language articulating the University's responsibility to provide guidance and resources for faculty to increase their understanding of copyright and to help them follow the law.

Thank you for the opportunity to opine. Please do not hesitate to contact me if you have additional questions or concerns.

Sincerely,

A handwritten signature in cursive script that reads 'Mary C. Gilly'.

Mary Gilly, Chair
Academic Council

Encl.

Cc: Academic Council
Vice Provost Carlson
Principal Analyst Miller
Executive Director Baxter
Senate Executive Directors



Office of the Academic Senate
307 Aldrich Hall
Irvine, CA 92697-1325
(949) 824-2215 FAX

April 15, 2015

Mary Gilly, Chair, Academic Council
1111 Franklin Street, 12th Floor
Oakland, CA 94607-5200

RE: Systemwide Final Review of Proposed Revisions to the UC Policy on Copyright and Fair Use

At its meeting of April 7, 2015, the Irvine Division Senate Cabinet discussed the proposed revisions to the UC Policy on Copyright and Fair Use which would bring the policy in alignment with current changes in law, technology, and academic practices.

In this final review of the proposed policy revisions, the Cabinet raised two issues for consideration.

- The language around the use of copyright materials remains ambiguous and would benefit from greater specificity.
- With the proposed changes in the UC Policy, it's important that the UC's copyright website provide thorough, reliable, and up to date resources and information for understanding copyright and fair use guidelines.

The Irvine Division appreciates the opportunity to provide its input.

Sincerely,

A handwritten signature in black ink that reads "Bill" with a stylized flourish underneath.

William Molzon,
Irvine Division Senate Chair

c: Hilary Baxter, Executive Director, Academic Senate
Natalie Schonfeld, Executive Director, Academic Senate, Irvine Division

UNIVERSITY OF CALIFORNIA, SANTA BARBARA

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SANTA BARBARA • SANTA CRUZ

ACADEMIC SENATE
Santa Barbara Division
1233 Girvetz Hall
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(805) 893-2885
<http://www.senate.ucsb.edu>

Kum-Kum Bhavnani, Chair
Deborah Karoff, Executive Director

April 22, 2015

Mary Gilly, Chair
Academic Senate

RE: UC Policy on Copyright and Fair Use

Dear Mary,

At the UCSB Division, most Senate Councils and Committees were provided the opportunity to comment on the final review of the UC Policy on Copyright and Fair Use and several groups responded. Graduate Council, the Council on Faculty Issues and Awards, the Council on Research and Instructional Resources, and the Faculty Executive Committees from the Graduate School of Education and the College of Creative Studies all expressed support for the final version. CFIA noted that the UC "will defend its employees who use copyrighted materials in an informed, good faith manner and within the scope of their University employment"

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in cursive script that reads "Kum-Kum Bhavnani".

Kum-Kum Bhavnani, Chair
Santa Barbara Division



Mary Gilly
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Chair of the Assembly of the Academic Senate
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University of California
1111 Franklin Street, 12th Floor
Oakland, California 94607-5200

May 5, 2015

**PROFESSOR HENNING BOHN
UNIVERSITY OF CALIFORNIA – SANTA BARBARA**

Re: Election to the UCRS Advisory Board

Dear Henning:

On behalf of the Academic Council, I congratulate you on your election to the UC Retirement System Advisory Board (UCRS-AB) for a four-year term of service beginning on July 1, 2015. In addition to attending the meetings of the UCRS-AB, you also will become an ex-officio member of the Task Force on Investments and Retirement (TFIR), a task force of the University Committee on Faculty Welfare. I have no doubt that your deep understanding of pension and benefits issues will allow you to ably represent the Senate on the Board. I am grateful for your continued dedication to Senate service and your fellow faculty members.

Sincerely,

A handwritten signature in cursive script that reads "Mary C. Gilly".

Mary Gilly, Chair
Academic Council

Cc: Academic Council
Executive Director Baxter



Mary Gilly
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Oakland, California 94607-5200

May 11, 2015

**SUSAN CARLSON, VICE PROVOST
ACADEMIC PERSONNEL**

Re: Proposed Revised Presidential Policy on Sexual Harassment and Sexual Violence

Dear Susan,

As you requested, I distributed for systemwide Senate review the [Proposed Revised Presidential Policy on Sexual Harassment and Sexual Violence](#). Nine Academic Senate divisions (UCB, UCD, UCI, UCLA, UCM, UCR, UCSD, UCSB, and UCSF) submitted comments. Several substantial concerns were expressed by Senate reviews, with the general consensus being that more work is needed before the final policy is issued. We encourage the authors to address as many of the comments as possible before circulating the Policy for another systemwide review. The comments are summarized below and attached for your reference.

First, we understand that UC is modifying its existing policy to meet the requirements of the federal Violence Against Women Act (VAWA) that take effect on July 1 2015, and to incorporate related recommendations issued by President Napolitano's Task Force on Preventing and Responding to Sexual Violence and Sexual Assault. Beyond the need to meet these objectives, the general goals of the revision are sound. A clearer, more comprehensive policy can help engender progressive change in the culture, behavior, and norms around what constitutes sexual harassment and consent, as well as improve the administrative handling of harassment and assault cases.

However, in many places the policy is still unclear and difficult to understand; uses vague, confusing, and/or inconsistent terminology; and occasionally goes beyond what VAWA requires into potentially inappropriate overreach. Please note that several of these issues were [identified by the Senate](#) in February 2014 after the initial systemwide review, but have not been fully addressed in the new revision.

It is our sense that the President's Task Force was primarily focused on students. It did not devote the same level of attention to the roles and responsibilities of faculty as mandated reporters of sexual harassment and assault cases. We ask that the authors now spend time clarifying these and other critical issues.

In particular I want to draw your attention to the detailed and persuasive commentary provided by the UC Irvine Associate Vice Chancellor and Title IX officer (pages 17-47). Council encourages the authors to review her suggestions carefully and incorporate them into a new draft.

Also, the Senate commentary revealed significant confusion from multiple divisions about (1) how the Policy articulates the relative responsibilities of different kinds of UC community members (faculty, students, staff and others) in the reporting process for different kinds of cases of sexual violence or harassment, and (2) the extent to which the reporting process differs for instances of sexual harassment and sexual violence. Terms used within the Policy such as “sexual harassment,” “Designated Employee,” and “representative” (for formal investigations) are not always clear. There is particular confusion about the definition, role, and expectations for “Designated Employees” in different circumstances. We ask the Policy authors to clarify terminology and lines of reporting responsibilities, the extent to which there is a mandate or simply encouragement for “designated employees” to forward a complaint or report, who those designated employees are, and to whom the complaint can or must go (i.e., the Title IX officer or others in authority).

The Policy fails to address certain employee-student relationships. It includes a specific definition of sexual harassment by a student toward another student, but does not provide guidance about how it applies to Graduate Student Instructors (GSIs) who are both students and have a supervisory teaching relationship, and whether a GSI has a reporting obligation as a “designated employee.” The Policy is also unclear about the potential reporting responsibility of emeriti faculty in their status as Senate members but not employees. In addition, the Policy should clarify its geographic reach and the degree to which it covers off-campus activity between and among members of the campus community.

Reviewers raised multiple questions and concerns about the scope and limits of confidentiality within the Policy. First, there is concern that the provision requiring mandatory reporting of all conversations about incidents is too broad and should be balanced with the need for individuals with whom victims can consult confidentially. In many cases, a faculty member may be this individual, but requiring faculty to report all conversations with students about potential harassment could force faculty to breach their student’s trust. Clear cases of sexual assault have strict legal reporting requirements, but that is not true for incidents involving harassment, and the complainant may prefer to raise the matter in confidence. There is also concern that requiring the University to inform respondents of the source of allegations will create a disincentive for victims to report incidents due to fears about retaliation. Finally, several reviewers noted that the draft policy may violate provisions of the Family Educational Rights and Privacy Act (FERPA).

Reviewers also noted that the policy fails to include appropriate language safeguarding the rights of respondents and ensuring that respondents are clearly informed of these rights during an investigation. In addition, several reviewers questioned whether the provision requiring disclosure of any disciplinary actions to the complainant would be in the best interests of the complainant and the campus. One Senate division noted that a respondent may choose to resign to avoid public humiliation, and disclosing sanctions imposed against the respondent would violate standard confidentiality clauses in settlement agreements involving faculty. Senior Vice President Vacca’s cover letter notes that this provision was added as the result of a presidential directive, not a VAWA requirement. We think UC should reconsider or provide a clearer justification for the provision.

There is significant confusion about the relationship of the Policy to the Faculty Code of Conduct (APM 015)—for example, whether a faculty member’s failure to report knowledge of an incident would violate APM 015. Reviewers also noted that the general definition of sexual harassment in the

Policy is inconsistent with the definition of harassment in other related policies it references, including APM 015. Moreover, the Policy appears to call on the Title IX officer to recommend specific sanctions, but Title IX officers do not currently have this role. Specifically, APM 015 outlines a disciplinary process for Senate faculty involving Senate Privilege and Tenure committees. The Policy should clarify the relationship between the Title IX office and Senate committees on Privilege and Tenure to ensure appropriate faculty oversight. At the very least, Senate members should be apprised of their right to appeal to Senate committees for a hearing at all phases of the process, and those committees should receive any relevant written reports from Title IX officers.

In Section V.B.3, “Procedures for Early Resolution,” the authors should clarify under what circumstances such a resolution proceeding would commence—that is, how would it be determined that a Formal Investigation is “not likely” to result in a satisfactory outcome, and who would make that determination. It is also unclear whether complaints of sexual violence and sexual harassment would both include an option for an Early Resolution.

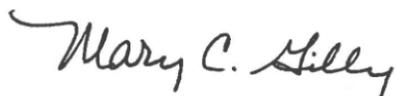
Senate reviewers expressed concern about Policy provisions related to mandatory training. The policy should clarify what kind of training will be mandatory for which campus constituency. Some feel that existing online training and education programs are insufficient and ineffective compared to in-person seminars. Faculty will also need training on how to communicate their role as mandatory reporters.

Finally, the Policy as written is unclear regarding how the University will be expected to interact with the legal system in cases of sexual violence and assault. To be fair, VAWA is putting the University in a difficult position. We believe it makes little sense to ask UC to adjudicate criminal cases through a Title IX process, and the University should consider how it might exert pressure to change the law. As a prominent national University, UC should have a role in shaping national policy, not just our own policy.

The University needs a Policy that helps prevent sexual violence and sexual harassment, strongly discourages repeat offenses by tying violations to appropriate disciplinary action, and addresses systemic problems. To be effective throughout the UC community, it must also provide clear guidance to faculty and contain reasonable protections.

Thank you for the opportunity to review and comment.

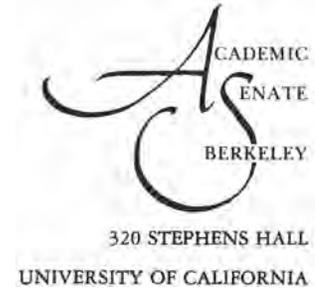
Sincerely,



Mary Gilly, Chair
Academic Council

Encl.

Cc: Academic Council
Senior Vice President Vacca
Policy Manager Lockwood
Executive Director Baxter
Senate Executive Directors



April 20, 2015

MARY GILLY
Chair, Academic Council

*Subject: Proposed Revised Presidential Policy on Sexual Harassment
and Sexual Violence*

Dear Mary,

On March 30, 2015, the Divisional Council (DIVCO) of the Berkeley Division discussed the proposed revised Presidential Policy on Sexual Harassment and Sexual Violence, informed by reports of the divisional committees on Diversity, Equity, and Campus Climate (DECC); Faculty Welfare (FWEL); Privilege and Tenure (P&T); Graduate Council (GC) and Undergraduate Council (UGC). While DIVCO welcomes the proposed revision as an improvement over the current policy, we agree with the reporting committees that a number of concerns should be addressed before the policy is adopted. Accordingly, to this letter I attach a compilation of divisional commentary on the proposed revision.

DIVCO believes that wider review and consultation will strengthen the proposed revision. Toward that end, we strongly urge the Office of the President to work with experts in this field, including UC law faculty, before circulating it for final review.

In closing, I note that much of the discussion in DIVCO, and in the DECC report, focused on campus-level issues and concerns. We believe that a strong, clear systemwide policy is necessary, but not sufficient to address this important matter. We underscore the need for each campus to develop an implementation plan tailored to local circumstances, and for the allocation of sufficient resources to support these efforts.

Sincerely,

A handwritten signature in black ink that reads 'P Papadopoulos'.

Panos Papadopoulos
Chair, Berkeley Division of the Academic Senate
Chancellor's Professor of Mechanical Engineering

Encl.

Cc: Donna Jones and Christine Wildsoet, Co-chairs, Committee on Diversity, Equity and Campus Climate
Mark Gergen, Chair, Committee on Faculty Welfare
Vern Paxson, Chair, Committee on Privilege and Tenure
Lisa Alvarez-Cohen, Chair, Graduate Council
David Presti, Chair, Undergraduate Council
Andrea Green Rush, Executive Director staffing the Committee on Privilege and Tenure
Linda Song, Associate Director staffing Graduate Council and Undergraduate Council
Diane Sprouse, Senate Analyst, Committee on Diversity, Equity, and Campus Climate
Anita Ross, Senate Analyst, Committee on Faculty Welfare

**Compiled commentary of Berkeley Division reporting committees and
councils
April 21, 2015**

The policy does not address the dual position of Graduate Student Instructors (GSIs) who are both a student and a supervisor. The definition of harassment on p. 3 from Policy 100 on Student Conduct and Discipline § 102.09 covers conduct that is "severe and/or pervasive, objectively offensive, and substantially impairs a person's access to University programs or activities." Under this rule a GSI who made unwanted sexual advances towards an undergraduate who the GSI supervised would be guilty of harassment only if the advances were severe or pervasive and substantially harmed the undergraduate. The general definition of harassment is not nearly so forgiving. It covers any "conduct of a sexual nature . . . that affect's or interferes with a person's . . . education, and/or educational performance." Nor is it clear whether a GSI is a "Designated Employee" who is under a reporting obligation. If the drafters of the policy decide not to address the special issues raised by GSI, then they might make it clear that campuses are expected to develop appropriate rules for GSIs.

We found several items that we think may be worth passing on to be addressed by the appropriate people before the policy is finalized.

At p. 15, second paragraph, the Policy states "When a report is received, managers, supervisors, and designated employees are required to notify the Title IX Officer . . . or other appropriate official designated by the location . . ." Is a failure by a faculty member to report a basis for disciplinary action against the faculty member under APM 15?

On the same point, does the University have discretion with regards to who is a mandatory reporter? It might also be helpful to clarify when a faculty member has a reporting obligation under applicable law apart from the Report. Coming at the last question from the other direction, to what extent does the Policy impose a new reporting obligation?

At p. 2 the Policy defines "sexual harassment" to include "conduct of a sexual nature, including verbal, nonverbal, or physical conduct—behavior that affects or interferes with a person's employment, work, education, and or educational performance." Appendix II (p. 27) explains: "Because the forms of unacceptable behavior listed in the Faculty Code of Conduct also apply to sexual harassment or sexual violence, a violation of the University's Policy on Sexual Harassment and Sexual Violence also constitutes a violation of the Faculty Code of Conduct." APM-015 does indeed prohibit under the Faculty Code of Conduct "Discrimination, including harassment . . ." But it does not define harassment.

The Policy may broaden the definition to cover conduct that was not heretofore considered sexual harassment and raising concerns for over breadth. This possibility is suggested by the narrower definition of "sexual harassment" in the

Student Code of Conduct, which the Policy incorporates by references on p. 3 as “unwelcome conduct of a sexual nature that effectively denies equal access to the University’s resources and opportunities because such conduct is severe and/or pervasive, objectively offensive and substantially impairs a person’s access to University programs or activities.”

The definition of harassment that applies to a faculty member does not require sexual conduct that is severe and/or pervasive, objectively offensive, and substantially affects or interferes with a person’s employment, work, education, and or educational performance. This raises a possible concern for over breadth. The Committee thought this concern could adequately be addressed by adding the word reasonable to the definition so it covers: “unreasonable conduct of a sexual nature, including verbal, nonverbal, or physical conduct, that affects or interferes with a person’s employment, work, education, and or educational performance.”

Overall, the document appears very comprehensive, although we have identified some areas in need of clarification and/or deficiencies ... Nonetheless, our more serious concern is to ensure that implementations of this policy lead towards the goal mandated by the Title IX investigations: to ensure that students are not denied the ability to participate fully in educational and other opportunities due to sex.

Thus the policy and its recommendations ought to lead to notable improvements not just in community culture and behavior on the UC Berkeley campus, but also in the administrative handling of assault reports ...

A. Areas in need of clarification

P6 and related later sections (e.g. page 9), states in relation to mandatory reporting responsibilities that *“Generally, this includes all employees, including academic appointees unless s/he has been identified as an employee who can provide confidential consultations for the University community pursuant to Section V.F. of this Policy. Designated employees must be informed of their own reporting responsibilities.”* Given the relatively limited resources available to support victims in distress and the potential value of having access to people (faculty &/or staff) that such people may already know and trust, this clause seems very restrictive and counter to the needs of the victim. Trained ombudspersons, strategically placed in units across the campus, may go some way to dealing with this problem. Also, victims of violence (sexual or otherwise) should automatically be assigned an advocate who can keep information confidential as requested by the victim.

P7. *“Any staff, student or academic employee in violation of this Policy may be subject to disciplinary action, up to and including dismissal.”* This sentence sets the wrong tone – a violation should always come with disciplinary action, which itself can be tailored to the nature of the violation.

P8. *“For example, policies that concern faculty-student relationships are found in The Faculty Code of Conduct.”* This sentence needs to be expanded to cover all teaching

relationships, including those between graduate student instructors and undergraduate students. It would also have more impact if the relevant sections of the Faculty Code of Conduct were extracted and clarified, or at least added as an appendix to this policy.

Clarifications are needed e.g. in what may or may not constitute a supervisory role. We recommend an unmistakable discouragement of faculty-undergraduate relationships such as in the recent Harvard policy: "No faculty member shall request or accept sexual favors from, or initiate or engage in a romantic or sexual relationship with, any undergraduate student." Similarly clear ground rules are needed for faculty-graduate student and GSI-undergraduate relationships.

"While the University understands the desire for confidentiality and will consider such a request, the University also has a legal responsibility to the respondent. Depending on the situation, there are cases in which the University needs to inform the respondent of the source of the allegation. (Information regarding confidentiality can be found in Section V.E and F.)" This clause will always work against reporting by victims, due to fears of retaliation and various forms of likely damage to the victims academic career. It is also not clear from related sections in this document (e.g., P10), just how well developed and so fail-safe are the processes to monitor for and protect against retaliation. As an educational institution, rather than following fixed legal procedures, we ought to have a right (and in fact mandate) to prioritize the protection of victims over procedural interests of perpetrators - in particular in cases of proven and repetitive patterns of seriously harmful offenses.

P10: *"Generally, disciplinary action will be taken when the conduct is sufficiently severe, persistent, or pervasive that it alters the conditions of employment or limits the complainant's opportunity to participate in or benefit from educational programs."*

It is not clear that this wording covers the case of the repeat offender, involving multiple different victims.

P11. *"Each location is responsible for describing each type of disciplinary proceeding used by the location."* Might it not be of value for at least all UC campuses to work together to reach a consensus on what represents acceptable behavior and processes for dealing with unacceptable behavior? It would send a message to the community at large that UC is committed to effectively addressing this pervasive problem.

P12. A. *Location Responsibilities*

"3. Provide mandatory training and education about sexual harassment and sexual violence prevention to all students, faculty, other academic staff, and staff."

Other than for students, training is limited to on-line programs and is insufficient, if the aim is to change culture.

"10. Designate trained individuals to serve as resources for members of the University community who have questions or concerns regarding behavior that may be sexual harassment or sexual violence." How are these people selected for this tasks, i.e., what credentials are required, and how will they be identified by those in

need?

“11. Conduct proceedings that incorporate these additional elements:

- *Timely access to any information that will be used after the fact-finding investigation, but during informal and formal disciplinary meetings and hearings, to the complainant, the respondent, and appropriate officials.”*

Who will do the fact-finding? What procedures will be in place for ruling out officials with conflicts of interest etc.? Will all cases be handled the same or is there a need for specialized personnel with extra training to handle cases involving violence?

“P14. The responsibilities of the Title IX Officer (Sexual Harassment Officer) include, but may not be limited to, the duties listed below:

- *Identify and address any patterns or systemic problems that arise during the review of sexual harassment and sexual violence complaints.”*

Little mention is made in this policy document of the confidential reporting mechanisms. This would seem a mechanism for identifying systemic patterns and/or repeat offenders, which should be highlighted in relevant places in this document.

“P18. The individual(s) accused of conduct violating the Policy must be provided with a copy of the written request for Formal Investigation or otherwise given a full and complete written statement of the allegations, and a copy of the Policy; and The individual(s) conducting the investigation must: iv) For cases involving allegations of sexual violence, the individual(s) conducting the investigation must receive annual training on issues related to sexual violence. Such training includes how to conduct an investigation that protects the safety of the complainants and promotes accountability.”

A set of selection criteria needs to be developed as part of this process, to screen out as possible committee members, those prone to stereotyping and/or overly affected by unconscious biases.

P22. “F. Resources, Confidentiality of Consultation and Reporting Sexual Harassment and/or Sexual Violence

Such confidential resources include:

- *a survivor advocacy office,*
- *licensed counselors in employee assistance programs, and*
- *licensed counselors in student counseling centers.*

Individuals who consult with confidential resources will be advised that their discussions in these settings are not considered actual reports of sexual harassment or sexual violence. Without additional action by the individual, these discussions will not result in any formal action by the University to resolve their concerns.”

Victims choosing not to report otherwise should be made aware of and strongly encouraged to use the anonymous ethicspoint reporting system as a mechanism to identify systemic problems and/or repeat offenders.

We found the reference to abuse against “one’s self” in the context of dating and domestic violence confusing (see the first bullet under section C, “Abuse”, on p. 4 of clean copy). That reference should either be clarified or removed.

Members agreed that the focus of the proposed policy on protections for and consideration of the rights of complainants was appropriate and were aware of the devastating consequences that failure to take accusations of sexual violence seriously in the past has wrought. Members were also keenly aware of the potentially devastating consequences of an unsubstantiated or false accusation, especially given the potential of social media to spread hearsay. While there is adequate protection of the rights of respondents in terms of privacy and due process, members would like to see language that ensures that respondents are clearly informed about their rights in this process. Members also agreed that the potential for ambiguity, confusion, and damaging ramifications from claims of and instances of sexual harassment and sexual violence highlights the need to educate students about definitions, processes, and consequences.

Indeed, members believe that changing norms around what constitutes consent in particular makes education by the university imperative. We were thus pleased to learn that UCOP and the campus are developing mandatory training along these lines and endorse these efforts.

Members were troubled by the statement on page 4 (clean copy) that this policy will only cover stalking that could be construed as sexual or gender based in nature because it seems to place the responsibility on students to differentiate between different types of stalking, which could confuse them regarding what this policy covers, and thus might limit its protections.



OFFICE OF THE ACADEMIC SENATE
ONE SHIELDS AVENUE
DAVIS, CALIFORNIA 95616-8502
TELEPHONE: (530) 752-2231

April 28, 2015

MARY GILLY, CHAIR

UC Academic Council
1111 Franklin Street, 12th Floor
Oakland, California 94607-5200

**Re: Systemwide Review of Proposed Revised Presidential Policy
Sexual Harassment and Sexual Violence**

The proposed revised Presidential Policy on Sexual Harassment and Sexual Violence was forwarded to all standing committees of the Davis Division of the Academic Senate, including school and college Faculty Executive Committees. Responses were received from the Committee on Faculty Welfare, Undergraduate Council and Graduate Council. The following comments and discussion points resulted:

The Divisional Academic Senate felt that online training, such as the one suggested for graduate students is not sufficiently effective compared to traditional in-person training such as seminars and workshops. Included in the training discussion were cultural competency issues that are linked to the possibility of actions perceived as harassment in this society but not so perceived in the home culture/society of the student, staff or faculty.

Additionally, sexual harassment and sexual violence should not be conflated with one another. We would suggest separating the two issues into two separate policy documents, rather than mixing them together in the same policy. If sexual violence and sexual harassment are to be covered by a single policy document, the wording and organizational structure should be improved to better distinguish between the special circumstances and needs associated with each issue.

Perhaps there is also a need to migrate towards California's move to "yes means yes" as opposed to "no means no" to emphasize the need for conscious positive consent. In addition, there is a need for due process to deal with the possible (albeit rarer) cases of false accusations.

It was also recommended that the fact sheet at the end of the package be rewritten as two fact sheets, one for sexual harassment and the other for sexual violence. At the head of each fact sheet there should be a short definition of what unacceptable behavior is, along with a short summary of the University Policy.

Lastly, the following points are specific editorial comments to help improve the clarity of the policy:

- Section II.A. The wording on student to student harassment seems to be more detailed than for other harassment possibilities. Is there a reason for this?
- Section II.B. Definition of sexual violence: Perhaps "...is unable to consent..." should be changed to "cannot consent" to be consistent with later wording.
- Section II.G. Regarding reporting obligation (page 8 of 52), there should be additional clarification of those who are required to report incidents. While the policy explicitly states "academic appointees," it is unclear whether all academic-related personnel, such as graduate teaching assistants, are included.
- Section II.F. Definition of consent: Perhaps change "...can only give his/her true consent if there is no force, threats, or intimidation..." to "...can give his/her true consent only if it has not been influenced by force, threats, or intimidation..."
- Section III.D. Response to reports of sexual harassment...violence: This section seems to be related only to harassment, and not violence, so we suggest adding wording (*in italics*) to indicate this: "Generally, *in cases of sexual harassment*, disciplinary action will be taken..."
- In the definition of incapacitation, the following sentence could be confusing: "Being intoxicated by drugs, alcohol, or other medication does not give another party permission to ignore whether consent was given." The following is offered to improve clarity: "Being intoxicated by drugs or alcohol does not diminish one's own responsibility to obtain consent from the potential partner one wishes to engage in the activity with."
- In this same section, should under age victims be also specifically mentioned as unable to give consent (does this depend on the age of the older person compared to the victim?)
- III B. Consensual Relationships: "also are..." should be "may also be" since not all consensual romantic relationships are subject to campus policies (such as of-age student romantic relationships; staff at equal appointment levels in different working groups, etc.)
- III C. Some minimum frequency of informing the campus community should be codified (for example, annual?)
- III G. Again, the frequency of training, or a minimum frequency, should be codified in the policy, in this section, for the community, not just for a few investigators and officers.
- IV B. Should the senate role in advising with UCOP be included explicitly here?
- V A 1. Should the official name of the office be codified as "CARE" in the document, or can we have different names on different campuses. There is some value in a standardized name to make sure people know where to turn to no matter which campus they're at.
- V A 3. Again, the frequency of training, or a minimum frequency, should be codified in the policy, in this section. Also, maybe wording on training on first entry into the UC system/campus would be pretty important.
- V A 4. Maybe a similar section should be added for sexual harassment, for prevention programs, right now seems limited to sexual violence.

- V A 6. Advertising and other continuing notification of the community of the location of the resources would be advisable.
- V B Suggest that there be a deadline consistent with related criminal code statutes of limitations involved with both sexual harassment and violence.
- V B 4. Shouldn't the age of any community member be included, in case visitors, etc. might be under legal age? Not just students.
- VB4e. Why can't witnesses have the right to representation without the approval of the investigator?

Sincerely,



André Knoesen, Chair
Davis Division of the Academic Senate
Professor: Electrical and Computer Engineering



Office of the Academic Senate
307 Aldrich Hall
Irvine, CA 92697-1325
(949) 824-2215 FAX

April 15, 2015

Mary Gilly, Chair, Academic Council
1111 Franklin Street, 12th Floor
Oakland, CA 94607-5200

RE: Systemwide Review of Proposed Revisions to the Presidential Policy on Sexual Harassment and Sexual Violence

Dear Mary:

At its April 7, 2015 meeting, the Irvine Division Senate Cabinet reviewed the proposed revisions to the Presidential Policy on Sexual Harassment and Sexual Violence. Both the Council on Faculty Welfare, Diversity and Academic Freedom (CFW) and the Council on Student Experience (CSE) had initially reviewed the policy and identified some concerns. In addition, CFW consulted with UCI's OEOD (Office of Equal Opportunity and Diversity) and we concur with the concerns they raised (see attached to CFW memo). The concerns identified in their reviews of the policy, and supported by the Cabinet, include:

- With the expansion of the policy to include sexual violence, the training required of faculty needs to similarly expand. In addition, the faculty recommended that training on how best to communicate the need to report conversations of potential harassment and violence be provided.
- Terms such as sexual harassment, designated employee, and representative (for formal investigations) as used within the policy are either incorrectly defined or unclear.

The Irvine Division appreciates the opportunity to comment.

Sincerely,

A handwritten signature in black ink that reads "Bill" with a stylized flourish underneath.

William Molzon, Irvine Division Senate Chair

Attachments: CFW Memo
CSE Memo

c: Hilary Baxter, Executive Director, Academic Senate
Natalie Schonfeld, Executive Director, Academic Senate, Irvine Division

April 2, 2015

**WILLIAM MOLZON, CHAIR
ACADEMIC SENATE – IRVINE DIVISION**

Re: SYSTEMWIDE REVIEW OF PROPOSED REVISED PRESIDENTIAL POLICY – SEXUAL HARASSMENT AND SEXUAL VIOLENCE

At its meeting on March 2, 2015, the Council on Student Experience (CSE) reviewed the proposed revisions to the President Policy on Sexual Harassment and Sexual Violence. The proposed revisions are meant to bring the University into compliance with the requirements of the Violence Against Women Act reauthorized by President Obama in 2013. The Final Regulations issued by the U.S. Department of Education will become effective July 1, 2015.

The Council identified two areas of concern in the suggested modifications listed below.

Reporting

The first sentence of the fifth paragraph in Section V.B. of the draft policy states that incidents should be *brought forward as soon as possible*. The Council found the statement to be unnecessary given the explanation for reporting timeframes outlined in the sentence that follows and suggested it be removed from the document.

Representation for Hearings

The Council noted representation for hearings as outlined is ambiguous. The first sentence in Section V.B.4.e. for formal hearing procedures references that *(t)he complainant and respondent may each request to have a representative present*. The Council strongly suggested this sentence be clarified for intent. If the complainant and respondent can always have a representative present, then the word *request* should be either removed or replaced with another term such as *elect*. If, however, representation must be approved by the investigator, then additional wording should be added to clarify representation has to be approved.

The Council thanks you for the opportunity to comment. If you have any questions, please do not hesitate to let me know.

Sincerely,



Amihai Glazer, Chair
Council on Student Experience

c: Alan Terricciano, Chair-Elect
Academic Senate

Natalie Schonfeld, Executive Director
Academic Senate

Wendy Chamorro, Analyst
Academic Senate

April 3, 2015

**WILLIAM MOLZON, CHAIR
ACADEMIC SENATE – IRVINE DIVISION**

**Re: SYSTEMWIDE REVIEW OF PROPOSED REVISED PRESIDENTIAL POLICY – SEXUAL
HARASSMENT AND SEXUAL VIOLENCE**

At its meeting on March 10, 2015, the Council on Faculty Welfare, Diversity and Academic Freedom (CFW) reviewed the proposed revisions to the President Policy on Sexual Harassment and Sexual Violence. The proposed revisions are meant to bring the University into compliance with the requirements of the Violence Against Women Act reauthorized by President Obama in 2013. The Final Regulations issued by the U.S. Department of Education will become effective July 1, 2015.

The Council identified three areas of concern in the proposed revisions with respect to reporting, training, and language.

Reporting

CFW members noted a high level of discomfort exists among faculty related to the requirement to report all conversations of potential harassment. Many members regarded this as a breach of confidentiality between faculty and students, however, were unable to resolve the issue as reporting is federally mandated. The Council recommends exploring possible language to address reporting that would allow faculty to retain their student's trust.

Training

The Council recommends integrating training on sexual violence with the existing required training for sexual harassment.

Language

The Council identified several areas of the policy with ambiguous language and recommends the suggestions submitted by the Office of Equal Opportunity and Diversity be taken into consideration. The office's response letter inclusive of comments relating to the various sections is enclosed.

Sincerely,



William Parker, Chair
Council on Faculty Welfare, Diversity, and Academic Freedom

Attachments (2)

c: Alan Terricciano, Chair-Elect
Academic Senate

Natalie Schonfeld, Executive Director
Academic Senate

Wendy Chamorro, Analyst
Academic Senate



OFFICE OF EQUAL OPPORTUNITY AND DIVERSITY
103 MULTIPURPOSE SCIENCE & TECHNOLOGY BLDG
IRVINE, CALIFORNIA 92697-1130

March 26, 2015

To Whom It May Concern,

I have reviewed the proposed *Policy on Sexual Harassment and Sexual Violence* distributed on February 18, 2015. In addition to the specific suggestions and comments that I have included on the enclosed red-lined policy draft, I have several general comments which I have summarized as follows:

1. **The definition of sexual harassment is incorrect.** See Section II A (page 2)

By bulleting this section, the Policy has substantially changed the definition, making it appear that *any* of the bullets could constitute sexual harassment. The current structure eliminates unwelcomeness and the reasonable person standard.

2. **The student on student sexual harassment standard is unclear.** Section II A (page 3)

Both this version and the prior version of the Policy have a different definition of sexual harassment for “harassment of one student by another student.” What is unclear is the appropriate standard to be used for 1) harassment of a student by an employee, such as a faculty member, and 2) harassment of an employee by a student.

3. **The term and use of “Designated Employee” is problematic.** Section II G (page 6)

The definition of “Designated Employee” is “all employees” except those identified as confidential. Under this definition, *all* employees must report incidents of sexual harassment or sexual violence to the Title IX coordinator. The definition does not clarify which employees are responsible for *responding to* sexual harassment complaints.

Section II C (page 8) implies that people can report sexual harassment or sexual violence to “these designated employees.” This is problematic because, while we may want all employees to report, we do not necessarily want all employees to be reported to.

Under section V A (p. 14), the Policy requires the University to “Train University employees who are responsible for reporting or responding to reports of sexual harassment.” Under the Policy, then, ALL employees must be “trained,” but the Policy is silent on how they are to be trained or how often.

Under section V B (p. 14), “Reports of sexual harassment . . . may also be brought to any manager, supervisor or **other designated employee** who is responsible for responding to reports of sexual harassment or sexual violence.” There is potential confusion about the role of “Designated Employees” with respect to their obligations to respond. A similar potential confusion occurs on the top of page 15.

4. **The amnesty section is overbroad and misplaced.** Section II E (page 9)

This section offers amnesty to both students and employees who report sexual harassment or sexual violence for “policy violations at or near the time of the incident, unless the University determines that the violation was egregious.”

This section was originally intended for students, who are currently offered amnesty for drug and alcohol violations. If we intend to extend to staff, we will receive amnesty requests for policy violations other than drugs and alcohol. By moving this section to the drugs and alcohol section, it will provide a better context for the types of amnesty we intend to consider.

5. **The retaliation section needs a standard.** Section II F (page 9)

6. **The training requirements are undefined and overbroad.** Section VA 3 (page 12), and VA 12 (page 14)

Although the locations are required to “provide mandatory training and education about sexual harassment and sexual violence prevention to *all students, faculty, other academic staff and staff*” there is no clear understanding of what kind of training that should be, what happens in the event of noncompliance, and how this will or will not overlap with AB1825. Also, how frequently will locations be required to provide this mandatory training to all?

Further, section V A 12 (page 14), requires the Title IX Office to “Train University employees who are responsible for reporting or responding to reports of sexual harassment.” If all employees are responsible for reporting sexual harassment complaints, then all employees would need to be trained under this section as well.

7. **Required written notifications for reports of sexual violence is overbroad.** Section VB 1(page 15)

This section suggests that we provide written notice to students and employees for incidents that occur off campus regardless of University nexus. I suggest that this section be amended to require that our obligations adhere when there is a nexus to the University.

8. **Providing notice of sanction in sexual harassment cases violates the law.** Section V B 4 j (page 20)

This section provides that “any sanction that is imposed against the respondent; and...the rationale for the result and the sanction” will be provided to the complainant at the conclusion of any sexual harassment case.

The law is clear that victims of sexual assault / sexual violence are entitled to know the sanctions and the University has and does comply with that requirement. However, this new requirement runs afoul of privacy law related to both students and employees in the case of sexual harassment. It is also a bad idea. Complainants are often satisfied with a finding of policy violation. They will be much less

happy with the resulting sanction. This is a substantial departure from prior practice and should be very carefully reviewed by legal counsel.

Thank you for the opportunity to comment. I look forward to reviewing the next Policy draft.

Sincerely,

A handwritten signature in blue ink that reads "Kirsten K. Quanbeck" followed by a stylized monogram.

Kirsten K. Quanbeck
Associate Vice Chancellor
Title IX Officer

Sexual Harassment and Sexual Violence



[Para la traducción en Español, oprima aquí](#)

[中國版本, 請按這裡](#)

Academic Officer:	Vice Provost – Academic Personnel and Programs
Academic Office:	APP – Academic Personnel and Programs
Student Officer:	VP – Student Affairs
Student Office:	SA – Student Affairs
Staff Officer:	VP – Human Resources
Staff Office:	HR – Human Resources
Issuance Date:	XX/XX/2015
Effective Date:	XX/XX/2015
Last Review Date	XX/XX/2015
Scope:	This policy applies to all University employees, students and University campuses, the Lawrence Berkeley National Laboratory, Medical Centers, the Office of the President, Agriculture and Natural Resources, and all University programs and activities

Comment [KKQ1]: As suggested in earlier reviews, the policy “owners” listed on this page are not the individuals or even the units to which we want to refer. If we they must remain identified on this page for purposes of consistency, I suggest we add Title IX Officers.

For assistance with incidents of dating violence, domestic violence, sexual assault, sexual harassment, sexual violence, and stalking, please contact your local CARE Advisor, at <http://sexualviolence.universityofcalifornia.edu>

Comment [KKQ2]: The CARE Advocates or Advisors work with sexual violence and offense, NOT sexual harassment. I would eliminate this term from the statement. If you need to include a “where to go for Sexual Harassment statement here, direct folks to the Title IX Officer.

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Sexual Harassment and Sexual Violence

For questions about this policy, please contact:

	Academic	Student	Staff
Contact:	Janet Lockwood	Eric Heng	Jeannene Whalen
Email:	janet.lockwood@ucop.edu	eric.heng@ucop.edu	jeannene.whelen@ucop.edu
Phone:	(510) 987-9499	(510) 987-0239	(510) 987-0853

Comment [KKQ3]: Confusing to have both a "policy summary" and a "policy statement" which include different language.

I. POLICY SUMMARY

The University of California is committed to creating and maintaining an atmosphere free of harassment, exploitation, and/or intimidation for every individual in our community. Every member of the community should be aware that the University prohibits sexual harassment and sexual violence, and that such behavior violates both law and University policy. The University will respond promptly and effectively to reports of sexual harassment and sexual violence, and will take appropriate action to prevent, to correct, and when necessary, to discipline behavior that violates this policy on Sexual Harassment and Sexual Violence (hereafter referred to as *Policy*).

Comment [KKQ4]: Use this language here and in Section III A; III D; VA(8); VA(12), and VB2.

This *Policy* complies with the law and with the University's commitment to the highest standards of ethical conduct, which are outlined in the University's [Statement of Ethical Values and Standards of Ethical Conduct](#).

II. DEFINITIONS

A. Sexual Harassment: Includes

- unwelcome sexual advances,
- requests for sexual favors,
- conduct of a sexual nature, including verbal, nonverbal, or physical conduct that creates an environment in which a reasonable person finds the behavior intimidating, hostile, or offensive, and
- conduct of a sexual nature, including verbal, nonverbal, or physical conduct – behavior that affects or interferes with a person's employment, work, education, and/or educational performance.

Comment [KKQ5]: Bulleting this language implies that each and every bulleted item could constitute sexual harassment under the policy, which is not accurate. Reasonableness and unwelcomeness are required in every case.

Sexual harassment may include incidents ~~between~~ involving any members of the University community, including:

- faculty and other academic appointees
- staff
- student employees

Wednesday, February 18, 2015

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Sexual Harassment and Sexual Violence

- students
- coaches
- residents
- interns
- non-student or non-employee participants in University programs (e.g., vendors, contractors, visitors, and patients).

Sexual harassment can occur in all types of relationships: hierarchical, between peers, or between individuals of ~~any gender or gender identity the same sex or opposite sex~~. The University will respond to reports of any such conduct between any such members of the University community, according to the *Policy*.

To determine whether any reported conduct constitutes sexual harassment, the University will consider the record of the conduct as a whole including the circumstances and context in which the conduct occurred.

Harassment of one student by another student is defined as unwelcome conduct of a sexual nature that effectively denies equal access to the University's resources and opportunities because such conduct is severe and/or pervasive, objectively offensive, and substantially impairs a person's access to University programs or activities. (See the University of California Policies Applying to Campus Activities, Organizations, and Students, [Policy 100.00 on Student Conduct and Discipline, Section 102.09](#))

Comment [KKQ6]: Need to clarify standard where 1) students harasses employee and 2) employee harasses student

B. Sexual Violence: ~~Physical~~, sexual ~~or gender based~~ acts, engaged in without the consent of the other person, or when the other person is unable to consent. Sexual violence includes any of the following:

Comment [KKQ7]: Not always physical, for instance some forms of stalking

- sexual assault
- ~~rape~~
- sexual battery
- domestic violence
- dating violence
- stalking

Comment [KKQ8]: This is a form of sexual assault

Comment [KKQ9]: Not defined

1. Sexual Assault: Occurs when physical, sexual activity is engaged without the consent of the other person, or when the other person is unable to consent to the activity. The activity or conduct may include the following:

- physical force
- violence
- threat
- intimidation
- ignoring the objections of the other person

Sexual Harassment and Sexual Violence

- causing the other person's intoxication or incapacitation (through the use of drugs or alcohol)
- taking advantage of the other person's incapacitation (including voluntary intoxication)
- sexual battery

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2. **Dating Violence:** Abuse committed by a person who is, or has been, in a romantic and/or intimate relationship with the victim.

Comment [KKQ10]: Suggest the following definition: "**Dating violence**" is behavior that includes physical, sexual, verbal, emotional or psychological abuse committed by a person who has been in a relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on consideration of factors such as length of relationship, type of relationship, and frequency of interaction between persons involved in the relationship.

3. **Domestic Violence:** Abuse committed against:

- an adult or a minor who is a
 - spouse or former spouse
 - cohabitant or former cohabitant
- someone with whom the abuser has
 - a child
 - an existing dating or engagement relationship
 - a former dating or engagement relationship

Comment [KKQ11]: Suggest the following definition: "**Domestic violence**" is behavior that includes physical, sexual, verbal, emotional or psychological abuse by a current or former spouse, by a person with whom the Complainant shares a child in common, by a person who is cohabitating or has cohabitated with the Complainant as a spouse, by a person similarly situated to a spouse of the Complainant under the laws of the jurisdiction, or any other person against an adult or youth victim who is protected from that person's acts under the domestic violence laws.

4. **Stalking:** Behavior in which someone repeatedly engages in conduct directed at a specific person. This conduct places the targeted person in reasonable fear of his or her safety or the safety of others or causes the targeted person to suffer substantial emotional distress. This policy intends to address stalking that could be reasonably construed as sexual or gender based in nature. Other forms of stalking of a non-sexual nature may be addressed by other University policies.

C. **Abuse:** In the context of dating and domestic violence, abuse is defined as any act of violence, whether it's a single act or an ongoing pattern of behavior, and/or any threatened act of violence, against:

Comment [KKQ12]: Suggest the following definition: "**Abuse**" means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable fear of imminent serious bodily injury to himself or herself or another. Abuse may include:

- one's self
- one's sexual or romantic partner, spouse or former spouse
- the family and/or friends of one's sexual or romantic partner, spouse or former spouse
- one's cohabitant or former cohabitant
- someone with whom the abuser has a child,
- someone with whom the abuser has an existing dating or engagement relationship
- someone with whom the abuser has had a former dating or engagement relationship

- Physical abuse involves acts such as hitting, slapping, pushing, punching, kicking, and choking. It could involve using a weapon or object to threaten or hurt someone. It also includes throwing, smashing, or breaking personal items and hurting or killing of pets.
- Sexual abuse involves pressuring or forcing someone to engage in nonconsensual sexual acts, including creating pictures or videos.
- Verbal abuse involves put downs, name calling, yelling or swearing.
- Emotional abuse involves ignoring someone or using looks or actions or speaking in ways that are frightening or threatening.

"Abuse" includes but is not limited to conduct that a reasonable person in similar circumstances and with similar identities would find intimidating, frightening, terrorizing, or threatening, including:

Comment [KKQ13]: This just restates the type of relationship – belongs back in the dating and domestic violence definitions, not here

Sexual Harassment and Sexual Violence

- physical violence
- sexual violence
- emotional abuse
- economic abuse
- threats
- assault
- property damage, [including pets](#)

~~D. **Awareness Programs:** Any community-wide programming, initiatives, and/or strategies that increase awareness, and share information and resources to prevent sexual violence, promote safety, and reduce acts of abuse.~~

~~E.D. **Complainant:** Any person who [makes files](#) a report of sexual harassment or sexual violence.~~

~~F.E. **Consent:** Consent is a *decision*; an unambiguous, affirmative, and conscious decision by each person, to engage in mutually agreed-upon sexual activity. (For the purposes of this *Policy*, the age of consent is consistent with California Penal Code Section 261.5.)~~

Consent is *voluntary*. Consent means a willing and positive cooperation in an act, or expressing a desire to engage in an act. A person can only give his/her true consent if there is no force, threats, or intimidation. Ultimately, consent is an exercise of free will. Silence does not mean consent.

Consent is *revocable*. At any point, in any context, consent can be denied and be taken back. More specifically:

- Consent to sexual activity, on one occasion, does not mean consent has been given to *any* form of sexual activity, on *any* occasion.
- A past dating experience or sexual relationship, by itself, is not enough to assume consent. Even in the context of a relationship, there always has to be mutual consent to engage in any sexual activity at any time.
- Consent is ongoing; meaning at any point during a sexual encounter consent has to be given, and can be withdrawn. Once consent is withdrawn, the sexual activity must stop immediately.

Consent cannot be given when a person is [incapacitated](#). A person cannot consent if s/he is unconscious or coming in and out of consciousness.

A person cannot consent if s/he is under the threat of violence, bodily injury, or other forms of intimidation.

A person cannot consent if s/he cannot understand the act because of a physical or mental impairment.

Sexual Harassment and Sexual Violence

Comment [KKQ14]: Do we want all employees designated to receive complaints? See Sec VB. I think we want to limit

G.F. Designated Responsible Employee: Any employee, who must report incidents of sexual harassment or sexual violence to the Title IX coordinator or other appropriate University designees. Generally, this includes all employees, including academic appointees unless s/he has been identified as an employee who can provide confidential consultations for the University community pursuant to Section V.F. of this Policy. Designated employees must be informed of their own reporting responsibilities.

H.G. Executive Officer: The University President, Chancellor, Lawrence Berkeley National Laboratory Director, or Vice President of Agricultural and Natural Resources.

H.H. Incapacitation: The physical and/or mental inability to make informed and rational judgments. States of incapacitation include, but are not limited to:

- unconsciousness
- sleep
- blackouts

Alcohol, drugs, or other medication can also be a factor. Incapacitation is defined with respect to how the alcohol or other drugs that were consumed affects a person's:

- decision-making capacity,
- awareness of consequences,
- ability to make fully informed judgments, and
- ability to communicate.

Being intoxicated by drugs, alcohol, or other medication does not give another party permission to ignore whether consent was given.

The factors to be considered when determining whether consent was given include whether the respondent knew, or whether a reasonable person should have known, that the complainant was incapacitated.

J.I. Ongoing Prevention and Awareness Campaigns: Programming, initiatives, and strategies that aim to increase understanding and awareness of sexual violence among a variety of audiences. These campaigns further aim to develop skills that address such issues and occurrences. The campaigns will cover topics relevant to dating violence, domestic violence, sexual assault, and stalking.

K.J. Primary Prevention Programs: Programming, initiatives, and strategies that have been created based on research, and/or assessed for their value, effectiveness, and/or outcome. These programs focus on preventing dating violence, domestic violence, sexual assault, and stalking. Therefore, these programs promote behaviors that foster healthy and respectful relationships, while also encouraging a

Sexual Harassment and Sexual Violence

safe environment for bystanders to intervene in a potential case of dating violence, domestic violence, sexual assault, and stalking.

Comment [KKQ15]: Add to Procedures or FAQ section rather than Policy

L.K. Proceeding: All activities involved when an institutional complaint is made requiring a non-criminal resolution. These activities include, but are not limited to:

- fact-finding investigations, and
- formal and informal meetings and hearings.

“Proceeding” does not include communications and meetings between officials and complainants when it concerns a complainant’s accommodations/protective measures.

M.L. Respondent: A person ~~about~~ ~~against~~ whom a report of sexual harassment or sexual violence is ~~made~~ ~~filed~~.

N.M. Risk Reduction: Strategies designed to decrease perpetration and bystander inaction, and create an environment where bystanders step in when abuse occurs, rather than remaining silent. These options would ultimately increase victim empowerment by reaching out to individuals and communities to:

- promote safety,
- extend help, and
- address conditions that facilitate violence.

Comment [KKQ16]: Add to Procedures or FAQs

O.N. Trauma-Informed: Methods designed to acknowledge the impact of violence and trauma on people’s lives and the importance of addressing trauma in education. Services are influenced by an understanding of the impact of interpersonal violence and victimization on an individual’s life and development. To provide trauma-informed services, all staff of an organization must understand how violence impacts the lives of the people being served, so that every interaction is consistent with the recovery process and reduces the possibility of re-traumatization.

Comment [KKQ17]: Do we need this in the Policy?

III. POLICY STATEMENT

A. General Overview/Prohibited Behavior

The University prohibits sexual harassment and sexual violence. ~~This behavior violates both the law and University policy.~~ The University will respond ~~as quickly as possible~~ ~~promptly~~ to any reports of sexual harassment and/or sexual violence. The University will take ~~any and all~~ appropriate action to prevent, correct, and when necessary, discipline behavior that violates this *Policy*. Any staff, student or academic employee in violation of this *Policy* may be subject to disciplinary action, up to and including dismissal.

Comment [KKQ18]: Language should be consistent with that in Section I, IIIA, IIID, VA(8), VA(12) and VB

Sexual Harassment and Sexual Violence

Harassment that may not be sexual, but still contributes to a hostile work or academic environment, also could violate the University's non-discrimination policies.¹ To determine if there has been sexual harassment or sexual violence, the University may take into account *any* acts of discrimination based on gender, gender identity, gender expression, sex- or gender-stereotyping, or sexual orientation.

B. Consensual Relationships

While romantic relationships between members of the University community may begin as consensual, they are not immune to instances of sexual harassment and/or sexual violence. Consensual romantic relationships between members of the University community also are subject to other University policies. For example, policies that concern faculty-student relationships are found in [The Faculty Code of Conduct](#). The various locations may have local policies about consensual relationships.

C. Reporting Sexual Harassment or Sexual Violence

Each location will notify the campus community about where reports of sexual harassment and/or sexual violence ~~should can~~ be made. ~~Any member of the University community can report acts of sexual harassment or sexual violence to these designated employees, supervisors, managers, or Title IX Officer (Sexual Harassment Officer).~~

Comment [KKQ19]: Need to think carefully about who we wish to "designate"

~~When a responsible employee receives a report of sexual harassment or sexual violence, they~~ All designated employees must immediately forward the reports to the Title IX Officer (Sexual Harassment Officer). The reports will be reviewed and appropriate action will be taken in accordance with this Policy. Any manager, supervisor, or other ~~responsible designated~~ employee who must report or respond to sexual harassment or sexual violence, who knew about an incident, and who took no action to stop or report it may be subject to disciplinary action.

Each location will identify staff who can provide confidential consultations to members of the University community seeking resources, information, and/or advice about making a sexual harassment and/or sexual violence report. ~~While the University understands the desire for confidentiality and will consider such a request, the University also has a legal responsibility to the respondent. Depending on the situation, there are cases in which the University needs to inform the respondent of the source of the allegation. (Information regarding confidentiality can be found in Section V.E and F.)~~

Comment [KKQ20]: Redundant

¹ [University of California Nondiscrimination and Affirmative Action Policy Regarding Academic and Staff](#); [Nondiscrimination and Affirmative Action Policy Statement for University of California](#); [Academic Personnel Manual \(APM\) Section 035, Affirmative Action and Nondiscrimination in Employment](#); [Personnel Policies for Staff Members 12, Nondiscrimination in Employment](#); [University of California Policies Applying to Campus Activities, Organizations, and Students](#); and [Nondiscrimination Policy Statement for University of California Publications Regarding Student-Related Matters](#).

Sexual Harassment and Sexual Violence

An individual may file a complaint or grievance alleging sexual harassment or sexual violence under the University complaint resolution or grievance procedure ([Section V, Procedures](#); [Appendix I: University Complaint Resolution and Grievance Procedures](#)).

D. Response to Reports of Sexual Harassment or Sexual Violence

All locations will provide a prompt, fair, and neutral response to reports of sexual harassment or sexual violence, which may include Early Resolution ~~or~~, Formal Investigation, ~~and/or targeted prevention training or educational programs~~. (See [Section V, Procedures](#) for more information.)

Comment [KKQ21]: We offer advocacy as part of our "response" which is not neutral

Comment [KKQ22]: Use consistent language, see VA(8).

Comment [KKQ23]: These are included as part of early resolution.

If an individual reports to the University that s/he has been a victim of domestic violence, dating violence, sexual assault, or stalking, s/he will be provided with a written explanation of his/her rights, as well as options, regardless of whether the offense occurred on- or off-campus, or on any University location.

If the University confirms an occurrence/occurrences of sexual harassment or sexual violence, the University may offer remedies to the individual or individuals harmed by the harassment and/or violence. These remedies will be consistent with "applicable complaint resolution" and "grievance procedures" ([Appendix I: University Complaint Resolution and Grievance Procedures](#)). Such remedies may include:

Comment [KKQ24]: This reads as though we need to confirm SH before taking any measure. We offer interim measures, many like those listed below long before a finding. Perhaps moving this paragraph below the "disciplina" paragraph will help the reader understand this is a remedy after a finding – and not get confused with interim measures.

- counseling,
- repeating course work without penalty,
- changing student housing assignments, and
- other appropriate interventions, such as changes in academic, living, transportation, or working situations.

Any member of the University community who engaged in sexual harassment or sexual violence is subject to disciplinary action including dismissal, in accordance with the applicable University disciplinary procedure. ([Appendix II: University Disciplinary Procedures](#)).

Generally, disciplinary action will be taken when the conduct is sufficiently severe, persistent, or pervasive that it alters the conditions of employment or limits the complainant's opportunity to participate in or benefit from educational programs.

Comment [KKQ25]: This seems a back end way to add a new element to the definition. The investigation will need to make a finding on this in order to be used and thus this element should be included in the definition section.

E. Protection for Complainants and Witnesses

To encourage reporting of sexual violence incidents, complainants and witnesses who participate in an investigation of sexual violence will not be subject to disciplinary sanctions or corrective actions for policy violations at or near the time of the incident, unless the University determines that the violation was egregious, including, but not limited, to an action that places the health or safety of any person at risk.

Comment [KKQ26]: Place this section in the alcohol and drugs section and/or limit to students. Otherwise a very large loophole in the employment context.

F. Retaliation

This *Policy* prohibits retaliation against a person who reports sexual harassment or sexual violence. This protection also extends to anyone who assists someone with a

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report and anyone involved in an investigation or resolution of a sexual harassment or sexual violence report. Retaliation includes, but is not limited to:

- threats,
- intimidation,
- reprisals, and/or
- harmful (adverse) actions related to employment or education.

Comment [KKQ27]: Unbullet; include a standard. Also "related to ..." is very low standard.

Any member of the University community who participates in retaliation may be subject to disciplinary action, including dismissal, according to the University disciplinary procedures ([Appendix II: University Disciplinary Procedures](#)).

G. Provision of Educational Programs/Employee Training and Dissemination of the Policy

To promote compliance with this *Policy* and familiarity with the procedures, each location must provide training and make preventive educational materials available to all members of the University community. In addition, the University will provide annual training to investigators and hearing officers. Each location must post a copy of this *Policy* in a prominent place on its website ([See Section V. Procedures](#)).

As part of the University's commitment to provide a working and learning environment free from sexual harassment and sexual violence, this *Policy* must be distributed to the entire University community through:

Comment [KKQ28]: The campus policy is what should be distributed – confusing to distribute both. Because this UC Policy directes locations to create their own implementing policy we must do so and rely and distribute THAT.

- publications,
- websites,
- new employee orientations,
- student orientations, and
- other appropriate channels of communication.

H. Free Speech and Academic Freedom

The faculty and other academic appointees, staff, and students of the University of California enjoy significant free speech protections guaranteed by the First Amendment of the United States Constitution and Article I, Section I of the California Constitution. This *Policy* is intended to protect members of the University community from discrimination, not to regulate protected speech. This *Policy* shall be implemented in a manner that recognizes the importance of rights to freedom of speech and expression.

The University also has a compelling interest in free inquiry and the collective search for knowledge and thus recognizes principles of academic freedom as a special area of protected speech. Consistent with these principles, no provision of this *Policy* shall be interpreted to prohibit conduct that is legitimately related to the course content, teaching methods, scholarship, or public commentary of an individual faculty member or the educational, political, artistic, or literary expression of students in classrooms and public forums. However, freedom of speech and academic freedom are not limitless and do

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not protect speech or expressive conduct that violates federal or state anti-discrimination laws.

I. Additional Enforcement Information

The federal Equal Employment Opportunity Commission (EEOC) and the California Department of Fair Employment and Housing (DFEH) investigate complaints of unlawful harassment, including sexual violence, in employment. The U.S. Department of Education Office for Civil Rights (OCR) investigates complaints of unlawful harassment and sexual violence by students in educational programs or activities. These agencies may serve as neutral fact finders and attempt to facilitate the voluntary resolution of disputes with the parties. For more information, contact the nearest office of the EEOC, DFEH or OCR.

IV. COMPLIANCE / RESPONSIBILITIES

A. Implementation of the Policy

Responsible Officers have the authority to develop procedures or other supplementary information to support the implementation of this *Policy*. Responsible Officers may apply appropriate and consistent interpretations to clarify the *Policy* provided that the interpretations do not result in substantive changes to the *Policy*.

Comment [KKQ29]: Please define

The Executive Officer at each location is authorized to establish and is responsible for local procedures to implement the *Policy*. Local procedures must be consistent with the *Policy*. Exceptions to procedures required by the *Policy* must be approved by the Executive Officer.

Comment [KKQ30]: Please define

Executive Officers and Responsible Officers are authorized to delegate responsibility for establishing local procedures necessary to implement the *Policy*.

Comment [KKQ31]: Please define

Each location is responsible for describing each type of disciplinary proceeding used by the location. This includes the steps, anticipated timelines, and decision-making process for each type of disciplinary proceedings. The procedures must also describe how the campus determines which type of proceeding to use based on the circumstances of an allegation.

B. Revisions to the Policy

The President approves the *Policy* and has the authority to approve revisions upon recommendation by the Responsible Officers.

The Responsible Officers have the authority to initiate revisions to the *Policy* consistent with approval authorities and applicable Bylaws, Standing Orders, and Policies of The Regents.

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The UC Provost and Executive Vice President of Academic Affairs, and the UC Executive Vice President – Chief Operating Officer have the authority to ensure that the *Policy* is reviewed regularly and updated in a manner that is consistent with other University policies.

C. Approval of Actions

Actions within the *Policy* must be approved according to local procedures.

D. Compliance with the Policy

The Executive Officer at each location will designate the local management office that is responsible for monitoring, enforcing, and reporting *Policy* compliance.

The Senior Vice President – Chief Compliance and Audit Officer will periodically audit and monitor compliance with the *Policy*.

E. Noncompliance with the Policy

Noncompliance with the *Policy* is managed according to the [Policy on Student Conduct and Discipline](#), Personnel Policies for Staff Members [61](#), [62](#), [63](#), [64](#), [65](#), and <http://policy.ucop.edu/doc/401041667> pertaining to disciplinary and separation matters, and according to other University policies, including but not limited to, [The Faculty Code of Conduct \(APM - 015\)](#) and [University Policy on Faculty Conduct and the Administration of Discipline \(APM - 016\)](#), [Non-Senate Academic Appointees/Corrective Action and Dismissal \(APM-150\)](#) or, as applicable, collective bargaining agreements. Reference Section VI and Appendices I and II.

V. REQUIRED PROCEDURES

A. Location Responsibilities

Each location must do the following:

1. Establish an independent, confidential Advocacy Office for sexual violence, dating violence, domestic violence, stalking, and sexual assault called CARE: Advocacy Office for Sexual and Gender-Based Violence and Misconduct.
2. Establish a consistent response team model consisting of two teams:
 - a. A Case Management Team (CMT) which maintains consistent coordination of reported sexual violence cases, ensures all cases are addressed efficiently and effectively, and ensures the response is trauma-informed; and
 - b. A Coordinated Community Review Team (CCRT) responsible for a campus collaborative approach to preventing and addressing sexual misconduct. The CCRT serves in an advisory capacity to campus leadership and community members about best practices in policies, education, prevention and response to sexual misconduct.

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3. Provide mandatory training and education about sexual harassment and sexual violence prevention to all students, faculty, other academic staff, and staff.

Comment [KKQ32]: A definition of "mandatory" and "training" is needed. What happens when faculty do not comply? The Title IX Officers, who are most likely to be tasked with this do not have the authority or ability to direct faculty (or staff or students) to do anything. Also what does "training" mean – can this be an instructional email? An online program? How does this fit (or not) with AB1825?

4. Offer primary prevention programs and awareness campaigns to the University community, to promote ongoing awareness of:

- rape and acquaintance rape
- domestic violence
- dating violence
- sexual assault
- stalking

Comment [KKQ33]: Rape and Acquaintance rape are not defined in policy and are covered under sexual assault

These campaigns will include, but are not limited to, education about:

- the definition of consent,
- prohibited consensual relationships,
- options for bystander intervention, and
- risk reduction awareness information.

Comment [KKQ34]: What does this mean? Relationships prohibited under a policy?

5. Offer comprehensive, annual training, for individuals conducting formal investigations of reports or conducting hearings on responding to sexual violence, including trauma-informed approaches as defined in this *Policy*.

6. Provide all members of the University community with a process for reporting sexual harassment or sexual violence according to the *Policy*.

7. Identify on- and off-campus resources for reporting sexual harassment or sexual violence, including law enforcement, medical, and victim support services.

8. Provide prompt and effective response to reports of sexual harassment, sexual violence, or reports of retaliation related to reports of sexual harassment or sexual violence, according to the *Policy*.

Comment [KKQ35]: Use consistent language

9. Provide written notification as outlined in Section V.B.1 of the *Policy*.

Comment [KKQ36]: See comments in that section

10. Designate trained individuals to serve as resources for members of the University community who have questions or concerns regarding behavior that may be sexual harassment or sexual violence.

Comment [KKQ37]: Who is this? Title IX Officers? Sexual Harassment Advisors? CARE? Not all campuses have Sexual Harassment Advisors.

11. Conduct proceedings that incorporate these additional elements:

- Timely notice of meetings, at which the respondent or complainant, or both, may be present.

Sexual Harassment and Sexual Violence

- Timely access to any information that will be used after the fact-finding investigation, but during informal and formal disciplinary meetings and hearings, to the complainant, the respondent, and appropriate officials.
 - Timely proceedings conducted by officials who do not have a conflict of interest, or bias for or against the complainant or the respondent.
12. Establish and designate a Title IX Officer (Sexual Harassment Officer). The names and contact information for the Title IX Officer (Sexual Harassment Officer) as well as any designated, trained, sexual harassment or sexual violence advisors, will be posted with the *Policy* and local procedures on the location's website and will be readily accessible to the University community. The responsibilities of the Title IX Officer (Sexual Harassment Officer) include, but may not be limited to, the duties listed below:
- Coordinate with other responsible units to ensure that local sexual harassment and sexual violence prevention education and training programs are offered and provided, as required by the *Policy*.
 - Disseminate the *Policy* to the University community.
 - Provide educational materials to promote compliance with the *Policy* and familiarity with local reporting procedures.
 - Train University employees who are responsible for reporting or responding to reports of sexual harassment.
 - Provide prompt and effective response to reports of sexual harassment or sexual violence according to the *Policy*.
 - Maintain records of reports of sexual harassment and sexual violence at the location, as well as any actions taken in response to reports, including records of investigations, voluntary resolutions, and disciplinary action, as appropriate.
 - Identify and address any patterns or systemic problems that arise during the review of sexual harassment and sexual violence complaints.
13. Distribute and post this Policy. Each location is required to distribute this policy to students, faculty, other academic staff and staff. Examples include, websites, student information boards, student handbook, faculty handbook and staff websites and information boards and during training and student orientation.

Comment [KKQ38]: Who is this? everyone? The earlier referred to Sexual Harassment Advisors? The "Designated" or "responsible" employees?

B. Procedures for Reporting and Responding to Reports of Sexual Harassment Or Sexual Violence

All members of the University community are encouraged to contact the Title IX Officer (Sexual Harassment Officer) if they observe or encounter conduct that may violate the *Policy*. This includes conduct by employees, students, or third parties.

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Reports of sexual harassment or sexual violence may be brought to the Title IX Officer (Sexual Harassment Officer). They may also be brought to any manager, supervisor, or other designated employee who is responsible for responding to reports of sexual harassment or sexual violence.

Comment [KKQ39]: Who is this? If everyone, as suggested in in Definition section II.G, this is problematic.

If the person to whom harassment normally would be reported is actually the individual being accused of harassment, reports may be made to another manager, supervisor, or other designated employee.

When a report is received, managers, supervisors, and all designated employees are required to notify the Title IX Officer (Sexual Harassment Officer) or another appropriate official designated by the location, who will then review the sexual harassment and sexual violence complaints and take appropriate action in accordance with this Policy.

Reports of sexual harassment or sexual violence should be brought forward as soon as possible after the alleged conduct occurs. While there is no stated timeframe for reporting, prompt reporting will make it easier for the University to respond to the report, determine the issues, and provide an appropriate remedy and/or action. All incidents should be reported, even if a significant amount of time has passed. However, delaying a report may make it difficult for the University to conduct an investigation and/or to take appropriate remedial actions.

1. Required Notifications For Reports of Sexual Violence

When the University receives a report that a student or employee has been a victim of sexual violence, the University will provide a written explanation of rights and available options to the complainant, including procedures to follow. This will be provided regardless of whether the offense occurred on campus ~~whenever there is a connection with any University program or activity, or in connection with any University program.~~ The written information shall include:

Comment [KKQ40]: Overbroad as written. This section should require some nexus to campus. We have no jurisdiction for incidents off campus unrelated to the University. For instance, the spouse of an employee who is a victim of DV has no complaint process or resources on campus.

- How and to whom the alleged offense should be reported.
- Options for reporting to and/or notifying law enforcement and campus authorities; the right to be assisted by campus authorities in notifying law enforcement authorities, if the complainant so chooses; and the right to decline to notify such authorities.
- The rights of complainants regarding orders of protection, no contact orders, restraining orders, or similar lawful orders issued by criminal or civil courts, as well as the University's responsibilities regarding such orders.
- The importance of preserving evidence that may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protection order.
- Existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, and other services available both within the institution and the community.

Comment [KKQ41]: Again, where unconnected to the University and off campus, we will be required to provide information regarding resources far beyond our jurisdiction.

Comment [KKQ42]: I read 34 CFR 668.46 (b)(11)(iv) to suggest that this is to be included in the annual security report (ASR) NOT the policy and not the informational letter we send victims.

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- Options for, and available assistance to, change academic, living, transportation, and working situations, if the complainant requests, and if such options are reasonably available—regardless of whether the victim chooses to report the crime to campus police or local law enforcement;
- Any applicable procedures for institutional disciplinary action.

2. Options for Resolution

Individuals reporting sexual harassment or sexual violence must be informed about their options. These options include but are not limited to:

- Early Resolution,
- Formal Investigation, and
- Filing complaints or grievances under the applicable University complaint resolution or grievance procedures.

Individuals making reports must also be informed about the confidentiality of reporting under this *Policy* (see Section V.F.G below).

Locations must respond promptly and effectively to reports of sexual harassment and sexual violence regardless of whether the reports are brought forth anonymously or by third parties who are not directly involved in the asserted offenses. However, the response to such reports may be limited if the information in the report cannot be verified by independent facts.

Individuals reporting sexual harassment and sexual violence must be informed about the range of possible outcomes of the report including:

- temporary protections,
- remedies for the individual harmed by the incident,
- disciplinary actions that might be taken as a result of the report, and
- information about the procedures leading to such outcomes.

An individual who experiences retaliation (e.g., threats, intimidation, reprisals, or adverse employment or educational actions) may report it. Retaliation could be experienced by those who:

- reported sexual harassment or sexual violence, in good faith;
- assisted someone with a report of sexual harassment or sexual violence; or
- participated in any manner in an investigation or resolution of a report of sexual harassment or sexual violence

(The report of retaliation shall be subject to the procedures in [Section V.B.3](#) and [Section V.B.4](#) below.)

Comment [KKQ43]: Section F seems to be about Confidential Resources, such as advocates, licensed counselors, Ombuds, etc. If someone "makes a report" their option to speak completely confidentially has passed. This line should be removed or redrafted.

Comment [KKQ44]: Use consistent language

Comment [KKQ45]: How are the procedures an "outcome"?

Sexual Harassment and Sexual Violence

3. *Procedures for Early Resolution*

The goal of Early Resolution is to resolve concerns with the cooperation of all parties involved, at the earliest stage possible. Locations are encouraged to use Early Resolution options only when the people involved desire to do so, or when a Formal Investigation is not likely to lead to a satisfactory outcome. Participation in the Early Resolution process is voluntary. Therefore, the University does not require that parties attempt to participate in Early Resolution before a Formal Investigation. Mediation, even if voluntary, may not be used in cases involving sexual violence. Some reports of sexual harassment may not be appropriate for mediation, and may **first and foremost** require a Formal Investigation. The University will not compel a complainant to engage in mediation.

Early Resolution may include an inquiry into the facts, but typically does not include a formal investigation. Means for Early Resolution should be flexible and include a full range of possible and appropriate outcomes.

Early Resolution includes, but is not limited to, the following options:

- mediating an agreement between the parties (not for incidents of sexual violence),
- separating the parties,
- referring the parties to counseling programs,
- negotiating an agreement for disciplinary action,
- conducting targeted preventive educational and training programs,
- providing remedies for the individual harmed by the offense,
- discussions with the parties,
- making recommendations for resolution, and
- conducting a follow-up review after a period of time to assure that the resolution has been implemented effectively.

Early Resolution might be appropriate for responding to anonymous reports and/or third party reports. All of the steps taken to encourage Early Resolution, and any agreements reached through Early Resolution, should be documented.

4. *Procedures for Formal Investigation*

In cases where Early Resolution is inappropriate or unsuccessful, a location may conduct a Formal Investigation.

In such cases, the individual making the report may be asked to file a written request for Formal Investigation. The wishes of the individual making the request will be considered, but will not solely determine whether a Formal Investigation into the report of sexual harassment or sexual violence is conducted.

Sexual Harassment and Sexual Violence

In cases where there is no written request, the Title IX Officer (Sexual Harassment Officer) or other appropriate, designated officials, will make a preliminary inquiry into the facts. Such officials could then initiate a Formal Investigation.

In cases where a complainant states that he or she does not want to pursue a Formal Investigation, the Title IX Officer (Sexual Harassment Officer) should inform the complainant that the ability to investigate may be limited. When determining whether to go forward with a Formal Investigation, the Title IX Officer (Sexual Harassment Officer) may consider:

- the seriousness of the allegation,
- the age of the student in the case of a student complainant,
- if there have been other complaints or reports against the respondent,
- if there will be a formal proceedings with sanctions, and
- if the accused individual has the right to receive information about the complainant and/or the allegations.

Even if a complainant does not want to pursue an investigation, under some circumstances, the Title IX Officer (Sexual Harassment Officer) may have to investigate a complaint. For example, there could be a risk to the campus community if the respondent remains on campus. The complainant should be made aware that there could be this independent obligation to investigate the complaint.

(a) To provide a prompt, fair, and impartial investigation ~~and resolution~~, any Formal Investigation of reports of sexual harassment and/or sexual violence must incorporate the following standards:

The individual(s) accused of conduct violating the *Policy* must be provided with a copy of the written request for Formal Investigation or otherwise given a full and complete written statement of the allegations, and a copy of the *Policy*; and

The individual(s) conducting the investigation must:

- i) Be familiar with the *Policy*;
- ii) Have training or experience in conducting investigations;
- iii) Be familiar with the relevant policies and procedures specific to students, staff, faculty, academic appointees, and visitors; and,
- iv) For cases involving allegations of sexual violence, the individual(s) conducting the investigation must receive annual training on issues related to sexual violence. Such training includes how to conduct an investigation that protects the safety of the complainants and promotes accountability.

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(b) If the alleged conduct is also the subject of a criminal investigation, the campus may not wait for the end of the criminal investigation to begin an investigation under to this *Policy*. However, a campus may need to coordinate its fact-finding efforts with the police investigation. Once notified that the police department has completed its gathering of evidence (not the ultimate outcome of the investigation or the filing of any criminal charges), the campus must promptly resume and complete its fact-finding for the sexual harassment or sexual violence investigation.

(c) To conduct a fair and thorough investigation, disclosing facts to parties and witnesses should be limited to what is reasonably necessary. Participants in an investigation may be advised to maintain the confidentiality of an investigation if it is essential to protect the investigation's integrity. The investigation generally should include:

- interviews with the parties, if available;
- interviews with other witnesses as needed; and
- a review of relevant documents as appropriate.

(d) The investigator shall apply a preponderance of the evidence standard to determine whether there has been a violation of this *Policy*.

(e) The complainant and the respondent may each request to have a representative present when he or she is interviewed, and at any other proceeding or related meeting. Other witnesses may also have a representative present if approved by the investigator, or if required by University policy or a collective bargaining agreement.

(f) At any time during the investigation, the investigator can recommend that certain ~~interim measures temporary protections~~ or solutions be provided by appropriate University officials for the parties or witnesses. These protections or remedies may include:

- separating the parties,
- placing limitations on the contact between the parties, or
- making alternative working or student housing arrangements.

Failure to comply with the terms of ~~interim measures temporary protections~~ may be considered a separate violation of this *Policy*.

(g) The investigation should be completed as quickly as possible and in most cases within 60 working days from the date that the formal investigation started. This deadline can be extended if the designated University official approves. Timeframe extensions will only be made for good cause, with written notifications to the complainant and the respondent, including the reason for the delay.

Comment [KKQ46]: See previous version

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(h) Generally, an investigation results in a written report. The report is submitted to the appropriate a designated University official with the authority to implement the necessary actions that aim to resolve the complaint. The report can be used as evidence in other related procedures, for example: future complaints, grievances and/or disciplinary actions.

Comment [KKQ47]: Don't use a term that currently has another meaning in this policy.

(i) According to University policy that governs privacy and access to personal information, 1) the complainant and the respondent may request a copy of the investigative report, and 2) the report must be redacted to protect the privacy of any personal and confidential information regarding all individuals other than the individual requesting the report.

(j) At the conclusion of any proceeding, the complainant and the respondent will simultaneously be informed of the following in writing:

- i. The outcome of any University proceeding, including
 1. the final determination with respect to the alleged offense;
 2. any sanction that is imposed against the respondent; and
 3. the rationale for the result and the sanction;
- ii. Whether there is a The right of appeal and if so, and the procedures for both the complainant and respondent to appeal the outcome of any University disciplinary proceeding;
- iii. Any change to the results that occurs prior to the time that such results become final; and
- iv. When results become final.

Comment [KKQ48]: This is a substantial departure from previous policy and procedures, and likely runs afoul of both privacy and FERPA. Not to mention that a good number of sanctions in the area of low level sexual harassment will cause more disrupt and unhappiness. Complainants often feel good about a finding of policy violation. They will feel less good when they see the sanction.

Comment [KKQ49]: Who will be responsible for writing this? Discipline and sanction are not administered by the Title IX Officer.

Comment [KKQ50]: This works for students in SV cases, but not other cases.

C. Complaints or Grievances Involving Allegations of Sexual Harassment or Sexual Violence

Instead of, or in addition al to, reporting to a Title IX Officer (Sexual Harassment Officer) or other appropriate designated officials, an individual who believes he or she has been subjected to sexual harassment or sexual violence can file a complaint or grievance. A complaint or grievance alleging sexual harassment or sexual violence must meet all of the requirements under the applicable complaint resolution or grievance procedure, including time limits for filing, listed in [Appendix I: University Complaint Resolution and Grievance Procedures](#).

Comment [KKQ51]: Is this limited to employees? If so, state that. Otherwise, this needs to be modified for the student context

If a complaint or grievance is filed in addition to a report made to the Title IX Officer (Sexual Harassment Officer), the complaint or grievance must be put on temporary hold, subject to the requirements of any applicable complaint resolution or grievance procedure. It will remain suspended until there is an outcome reached from the Early Resolution or Formal Investigation procedures. If the individual wishes to proceed with the complaint or grievance, the Early Resolution or Formal Investigation will then become the first step or steps of the applicable complaint resolution or grievance procedure.

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A complainant or respondent can also file a complaint or grievance stating that the actions taken in response to the report of sexual harassment or sexual violence did not follow *Policy*. Such a complaint or grievance cannot be used to address the disciplinary sanction, if any, that was imposed upon the respondent. Any complaint or grievance regarding the resolution of a report of sexual harassment or sexual violence must be filed in a timely manner. The time period for filing begins on the latest of the dates on which the individual was notified of:

- the outcome of the investigation,
- any other resolution process according to this *Policy*, and/or
- the actions that the administration took in response to the report of sexual harassment or sexual violence.

D. Remedies and Referral to Disciplinary Procedures

If the *Policy* was violated, and a report of sexual harassment or sexual violence results in a recommendation for disciplinary action, there are applicable, disciplinary action procedures that should be followed ([Appendix II](#)). In addition, these procedures should guide any remedies for the complainant.

Procedures under this *Policy* will be coordinated with all local complaint resolution, grievance, and disciplinary procedures, to avoid any duplication in the fact-finding process whenever possible. Violations of the *Policy* may include:

- engaging in sexual harassment or sexual violence,
- retaliating against a complainant who reports sexual harassment or sexual violence, and
- violating interim protections.

Investigative reports made according to this *Policy* can be used as evidence in any future complaint resolution, grievance, and disciplinary proceedings as permitted by the applicable procedures.

E. Privacy

The University will protect the privacy of individuals involved in a report of sexual harassment or sexual violence to the extent permitted by law and by University *Policy*. A report of sexual harassment or sexual violence can result in gathering extremely sensitive information about individuals in the University community.

While such information is considered confidential, University policy may also require the disclosure of certain information during an investigation. In such cases, every effort will be made to redact the records to protect the privacy of individuals.

The complainant will be informed of the results of a disciplinary proceeding against the respondent, in accordance with [Section V.B.4.j.](#), including information regarding disciplinary action taken against the respondent.

Comment [KKQ52]: What is this process and where do we think it should live? If grievance, is it only available to employees? More discussion is needed here.

Comment [KKQ53]: See previous comment. Note that we are able and do do this in SV cases, but not SH

Wednesday, February 18, 2015

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Sexual Harassment and Sexual Violence

F. Resources, Confidentiality of Consultation and Reporting Sexual Harassment and/or Sexual Violence

For any member of the University community seeking resources, information, and/or advice about making a sexual harassment and/or sexual violence report, each location will offer confidential consultations with designated personnel. These resources

- provide such individuals with a safe place to discuss their concerns and learn about the procedures and potential outcomes involved, and
- will be posted on each location's website.

Such confidential resources include:

- ~~a survivor~~ advocacy office,
- licensed counselors in employee assistance programs, and
- licensed counselors in student counseling centers,
- ~~ombuds office~~.

Individuals who consult with confidential resources will be advised that their discussions in these settings are *not* considered actual reports of sexual harassment or sexual violence. Without additional action by the individual, these discussions will not result in any formal action by the University to resolve their concerns.

The locations will notify the University community that certain University employees, such as the Title IX Officer (Sexual Harassment Officer), managers, supervisors, and other designated employees, have an obligation to respond to reports of sexual harassment or sexual violence, even if the individual making the report requests that no action be taken.

While the University understands the desire for confidentiality, and will do its best to fulfill these requests when determining an appropriate response, the University also has a legal responsibility to the respondent. Depending on the situation, there are cases in which the University will need to inform the respondent of the source of the allegation. This level of disclosure may be necessary to ensure a complete and fair investigation.

G. Retention of Records Regarding Reports of Sexual Harassment and Sexual Violence

The office of the Title IX Officer (Sexual Harassment Officer) is responsible for maintaining records relating to sexual harassment and sexual violence reports, investigations, and resolutions. Records will be maintained according to University records policies. Records that fall under the scope of the Clery Act will be retained for 7 years, according to federal law. All records pertaining to pending litigation, or a request for records, will be maintained according to instructions from legal counsel.

Formatted: Font: (Intl) Arial, Lowered by 1 pt

Comment [KKQ54]: ? everone? Designated? Responsible? Officers and administrators?

Comment [KKQ55]: See previous comments regarding this term.

Comment [KKQ56]: This section is confusing because it suggests that completely confidential resources, like those listed above, may not be. Redraft or place in the reporting section.

Sexual Harassment and Sexual Violence

VI. RELATED INFORMATION

- A. [Violence Against Women Reauthorization Act \(VAWA\) of 2013](#)
- B. [University of California Statement of Ethical Values](#)
- C. [Standards of Ethical Conduct](#)
- D. [Academic Personnel Manual \(APM\) Section 015](#), The Faculty Code of Conduct (referenced in Section III.D, footnote 1)
- E. [Academic Personnel Manual \(APM\) Section 016, University Policy on Faculty Conduct and the Administration of Discipline](#) (referenced in Section III.D, footnote 1)
- F. footnote 1)
- G. [Academic Personnel Manual \(APM\) Section 035, Affirmative Action and Nondiscrimination in Employment](#) (referenced in Section III.D, footnote 2)
- H. [Academic Personnel Manual \(APM\) Section 150](#), Non-Senate Academic Appointees/Corrective Action and Dismissal
- I. [Nondiscrimination and Affirmative Action Policy Statement for University of California Publications Regarding Employment Practices](#) (referenced in Section III.D, footnote 2)
- J. [Nondiscrimination Policy Statement for University of California Publications Regarding Student-Related Matters](#) (referenced in Section III.D, footnote 2)
- K. [Personnel Policies for Staff Members 12 \(Nondiscrimination in Employment\)](#) (referenced in Section III.D, footnote 2)
- L. [Policy on Student Conduct and Discipline](#)
- M. [Student-Related Policy Applying to Nondiscrimination on the Basis of Sex](#)
- N. [University of California Nondiscrimination and Affirmative Action Policy Regarding Academic and Staff Employment](#) (referenced in Section III.D, footnote 2)
- O. [UC Business and Finance Bulletin RMP-8, Legal Requirements on Privacy of and Access to Information](#)
- P. [University of California Policies Applying to Campus Activities, Organizations, and Students](#) (referenced in Section III.D, footnote 2)
- Q. [Business and Finance Bulletin RMP-2: Records Retention and Disposition: Principles, Processes, and Guidelines](#)
- R. [University of California Non-Discrimination Policy](#)
- S. [Guidelines on Sexual Harassment and Sexual Violence Outcome Reporting](#)
- T. [Government Code 12950.1](#)

Comment [KKQ57]: There are SEVEN nondiscrimination policies listed on this page. Talk about confusing and unhelpful!

Comment [KKQ58]: What is this?

Sexual Harassment and Sexual Violence

VII. FREQUENTLY ASKED QUESTIONS

Comment [KKQ59]: Without more, this section is fairly worthless. Perhaps move some of definitions and training sections here. Or take the FAQ from the website.

1. **Who can be considered a Representative as described in Section V (B)(4)(e)?**

A representative includes any individual who provides the complainant or respondent support, guidance, or advice (including attorneys). The institution cannot limit the choice of an advisor, but may establish certain restrictions regarding the extent to which the advisor can participate in the proceedings as long as the restrictions apply equally to both parties.²

2. **What is a “result” or “outcome” of a disciplinary proceeding?**

A result or outcome includes any initial, temporary, and final decision made by any official or authorized person, that aims to resolve a disciplinary matter within the institution. The result must include any **sanctions** imposed by the institution. The result must also include **the rationale for the result and the sanctions**. For more information, please see the “Guidelines on Sexual Harassment and Sexual Violence outcome reporting”.

Comment [KKQ60]: I'm not sure what this is.

² Proposed regulation 34 C.F.R. 668.46(k)(2)(iii)-(iv) provides: (k) *Procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking*. As required by paragraph (b)(11)(vi) of this section, an institution must include in its annual security report a clear statement of policy that addresses the procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking and that - ... (2) Provides that the proceedings will...

(iv) ***Not limit the choice of advisor*** or presence for either the accuser or the accused in any meeting or institutional disciplinary proceeding; however, the ***institution may establish restrictions regarding the extent to which the advisory any participate in the proceedings, as long as the restrictions apply equally to both parties.***

Sexual Harassment and Sexual Violence

VIII. REVISION HISTORY

XX/XX/2015 –

02/25/104 - This policy was reformatted into the standard University of California policy template effective .

Future revisions to this policy will be circulated under standard procedures for Presidential Policies; in the case of this policy, the review will include circulation under the standard Academic Personnel Manual (APM) process, with final authority resting with the President.

As a result of the issuance of this policy, the following documents are rescinded as of the effective date of this policy and are no longer applicable:

- University of California Policy on Sexual Harassment, dated February 10, 2006
- University of California Procedures for Responding to Reports of Sexual Harassment, dated December 14, 2004
 - University of California Policy on Sexual Harassment and Complaint Resolution Procedures, dated April 23, 1992
 - University of California Policy on Sexual Harassment and complaint Resolution Procedures, dated March 10, 1986

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Sexual Harassment and Sexual Violence

APPENDIX I: University Complaint Resolution and Grievance Procedures

The following are the resolution and grievance procedures for members of the University community:

Academic Personnel:

Members of the Academic Senate	Senate Bylaw 335
Non-Senate Academic Appointees	APM - 140
Exclusively Represented Academic Appointees	Applicable collective bargaining agreement

Students:

[Policies Applying to Campus Activities, Organizations and Students, Section 110.00](#)

Staff Personnel:

Senior Managers	PPSM II-70
Managers and Senior Professionals, Salary Grades VIII and IX	PPSM 71
Managers and Senior Professionals, Salary Grades I – VII; and Professional and Support Staff	PPSM 70
Exclusively Represented Staff Personnel	Applicable collective bargaining agreement
Lawrence Berkeley National Laboratory Employees	Applicable Laboratory policy

All:

The [University of California Policy on Reporting and Investigating Allegations of Suspected Improper Governmental Activities \(Whistleblower Policy\)](#) and the [University of California Policy for Protection of Whistleblowers from Retaliation and Guidelines for Reviewing Retaliation Complaints \(Whistleblower Protection Policy\)](#), which govern the reporting and investigation of violations of state or federal laws or regulations and University policy, including sexual harassment.

Sexual Harassment and Sexual Violence

APPENDIX II: University Disciplinary Procedures

The following are the disciplinary procedures and policies if a report of sexual harassment or sexual violence results in a recommendation for disciplinary action:

- A. [The Faculty Code of Conduct \(APM - 015\)](#) (as approved by the Assembly of the Academic Senate and by The Regents)
- outlines the ethical and professional standards which University faculty are expected to observe, and
 - identifies various forms of unacceptable behavior which apply in cases of sexual harassment or sexual violence.
- Because the forms of unacceptable behavior listed in *The Faculty Code of Conduct* also apply to sexual harassment or sexual violence, a violation of the University's *Policy on Sexual Harassment and Sexual Violence* also constitutes a violation of the *Faculty Code of Conduct*. The [University Policy on Faculty Conduct and the Administration of Discipline \(APM - 016\)](#), as approved by the Assembly of the Academic Senate and by The Regents, outlines sanctions and disciplinary procedures for faculty.
- B. Provisions of the policy on [Non-Senate Academic Appointees/Corrective Action and Dismissal \(APM - 150\)](#) (which are applicable to non-exclusively represented academic appointees) and collective bargaining agreements that are applicable to exclusively represented academic appointees allow for corrective action or dismissal for conduct which violates University policy.
- C. The [Policies Applying to Campus Activities, Organizations, and Students](#) sets forth in Section 100.00 the types of student misconduct that are subject to discipline and the types of disciplinary actions that can be imposed for each of those violations of University policies or campus procedures.
- D. Provisions of the [Personnel Policies for Staff Members](#), and the Lawrence Berkeley National Laboratory personnel policies (applicable to non-exclusively represented staff employees), and collective bargaining agreements (applicable to exclusively represented staff employees) prohibit conduct that violates University policy for sexual harassment or sexual violence and provide for disciplinary action for violating University policy.
- [PPSM-62: Corrective Action](#)
 - [PPSM-63: Investigatory Leave](#)
 - [PPSM-64: Termination of Career Employees – Professional and Support Staff](#)
 - [PPSM-65: Termination of Career Employees - Managers & Senior Professionals, Salary Grades I through VII](#)
 - [PPSM-67: Termination of Career Employees – Managers & Senior Professionals, Salary Grades VIII and IX](#)

Wednesday, February 18, 2015

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Sexual Harassment and Sexual Violence



APPENDIX III: SAMPLE Policy Fact Sheet

The University of California is committed to creating and maintaining an atmosphere free of harassment, exploitation, and/or intimidation for every individual in our community. The University's policy on Sexual Harassment and Sexual Violence establishes the University's staunch position, as well as the various means of addressing any such instances of sexual harassment and/or sexual violence.

For assistance with incidents of dating violence, domestic violence, sexual assault, sexual harassment, sexual violence, and stalking, please contact:

On Campus Resources	
<p>CARE Advocate Confidential 24 hour counselor available for crisis support and referral services</p> <p>(510) 642-4444 CAREAdvisor@campus.edu</p>	<p>The UC Police Department (510) 643-7985 (24-hour line) (510) 642-3333 (24-hour emergency line)</p>
Off Campus Resources	
<p>A Safe Place Oakland hotline, shelter, crisis referral, advocacy, counseling, emergency food, clothing and transportation. 24-hr. crisis line: (510) 536-SAFE (7233)</p>	<p>BAWAR 24-hr hotline staffed by trained counselors. Accompanies survivors to police dept, hospitals & courts. Offers short term counseling and support groups, and referrals for long-term counseling. Special outreach to Latina survivors. 24-hr. crisis line: (510) 845-RAPE (7273)</p>

What do I do if I've been sexually assaulted?

- **Find a safe location away from your attacker.** If you cannot get somewhere safe, call 911 right away.
- **Get medical attention.** Do not shower, eat, drink go to the bathroom, brush your teeth or change your clothes before going to the hospital.
 - If you want to change your clothes, put them in a paper (not plastic) bag and bring them to the hospital.
 - Seeking medical attention right away will reduce your risk of pregnancy and STI's.
- **Seek support.** Sexual assault is a traumatic experience. If you feel comfortable, seek support from a CARE Advisor, friend or family member.

How can I help someone who may have been sexually harassed or sexually assaulted??

- Remember that the victim's wellbeing must be considered before all other matters.
- Immediately reporting a case to the police could be more traumatic for the victim than beneficial. Let them make the decision to report (or not report).
- Talk to the person and reinforce that they are not at fault. However, if the individual does not wish to talk to you, respect their decision.
- Contact resources below for information on how to best support a friend through his or her healing process.

See the [UC Sexual Harassment and Sexual Violence policy, for further information on:](#)

- Prohibited conduct and Affirmative Consent
- Confidentiality of Reports of Sexual Harassment and Sexual Violence
- Procedures for Reporting and Responding to Reports of Sexual Harassment or Sexual Violence
- University Complaint Resolution and Grievance Procedures

April 20, 2015

Mary Gilly
Chair, UC Academic Council

Re: Systemwide Review of Proposed Revised Presidential Policy - Sexual Harassment and Sexual Violence

Dear Mary,

The Executive Board of the UCLA Academic Senate discussed the proposed revisions to the Presidential Policy on Sexual Harassment and Sexual Violence at its meeting on April 16, 2015. The individual responses from our various committees are available [online](#).

We were aided in our discussion by the newly appointed Title IX Coordinator Kathleen Salvaty, as well as the former Interim Title IX Coordinator Cherie Scricca. In general, the committees are supportive of the effort to have an in-depth policy, but based on both what the Senate committees wrote and the comments from the UCLA Title IX Office, the Board members feel that the policy still lacks clarification in several areas important to effective implementation. Our Privilege and Tenure Committee, as the disciplinary partner of the Vice Chancellor of Academic Personnel, had many questions about how to integrate the policy with Senate processes.

Areas of clarification requested:

Who reports to whom?

Several committees found the language about who reports to whom somewhat confusing. The definition of “designated employee” in the policy states that this “generally includes all employees, including academic appointees.” [Section III.C](#) states that “all designated employees must immediately forward the reports to the Title IX Officer.” However, the same section also uses “can report.” [Section V.B](#) uses the language “are encouraged to contact” and “may be brought to the Title IX Officer . . . may also be brought to any manager, supervisor, or other designated employee who is responsible. . . .” Another committee pointed out that the [Appendix III](#) “Sample Policy Fact Sheet” indicates that not reporting is an option. This may be because the fact sheet includes both sexual violence and sexual harassment. Likewise, [Section V.C](#) seems to indicate that complainants can use another grievance process on campus “instead of” the Title IX Officer’s report.

It was suggested that it might be helpful to address these concerns by providing a breakdown of who reports (is a designated or “mandatory” reporter) and to whom by type of complaint/complainant in the following situations: (1) the complaint involves sexual violence; (2) the complainant is a student; (3) the complainant is an employee, including (a) Senate members; (b) Staff; (c) non-Senate academic appointees; (d) Post-doctoral or fellow; and (4) complainant is not a member of the University community, but a guest or participant in a University-sponsored activity. The Committee on Emeriti Affairs also indicated they would appreciate clarification of their status as reporters if they are Senate members but no longer employees.

Finally, is there a statute of limitations for filing a complaint, and if so, what is it?

Early Resolution

In [Section V.B.3](#), “Procedures for Early Resolution,” the College FEC asked for clarification of “when a Formal Investigation is not likely to lead to a satisfactory outcome.” If a Formal Investigation is only to be waived if both parties agree to an Early Resolution option, when would a decision be made to not go forward because the outcome would not be satisfactory? Who would be allowed to make that decision?

Also, as with reporting/reporters, are the options for Early Resolution different depending on the complaint/complainant?

Outcome of a Formal Investigation

Remedies/Discipline

The Board also received questions asking for clarifications about the procedures once a Formal Investigation is complete. As written, the policy seems to blend the ‘remedies’ response with campus disciplinary processes. Likewise, the policy seems to blend an appeal of the Title IX investigation outcome with campus grievance processes. According to the UCLA Title IX Officers, at least with harassment, their report only addresses remedies to end and prevent the harassment as well as any remedy to address its effect. However, in the section on Formal Investigations, the policy uses “sanction” (a disciplinary term) rather than “remedy” and refers to “final determination” and “University disciplinary proceedings.” [Section V.B.4(j)]

Is it the intent of the policy that a Title IX investigation makes disciplinary recommendations in addition to imposing remedies? If not, it may be helpful to clarify that a formal investigation makes a determination whether or not the respondent has violated the policy and, if so, imposes remedies for the complainant and outlines the necessary actions to end the harassment as well as prevent future harassment. The policy can then state that the findings will be referred to the respective campus disciplinary processes for possible disciplinary sanctions.

The Privilege and Tenure Committee expressed concern about equating a violation of the policy with a violation of the Faculty Code of Conduct. The Board feels that the underlying concern is that the policy does not eliminate the “significant faculty involvement” in disciplinary processes as outlined in the Faculty Code of Conduct. When the respondent is a Senate member, the Academic Senate committee(s) involved with faculty discipline should be included in any disciplinary referrals (informal or not) and should receive the written investigation report in order to consider possible disciplinary sanctions (in addition to whatever remedies the Title IX Office may have imposed).

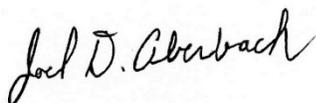
Appeals

The policy does indicate that both parties to a complaint have the right to appeal. Students appeal findings through the Office of Student Affairs. What is the appeals process for faculty? And, as above, is appealing a Title IX finding of policy violation possible, or is it only possible to appeal “the outcome of any University disciplinary proceeding?” Committees are concerned that Senate members be apprised of their right to appeal to Senate committees for a hearing at all phases of the process.

Again, we urge you to review the responses we received because of the many questions they raised.

Please feel free to contact me if you should have any questions.

Sincerely,



Joel D. Aberbach
Chair, Academic Senate

cc: Dan Hare, Vice Chair, Academic Council
Hilary Baxter, Executive Director, Systemwide Academic Senate
Michael LaBriola, Principal Policy Analyst, Systemwide Academic Senate
Linda Mohr, Chief Administrative Officer, UCLA Academic Senate



OFFICE OF THE ACADEMIC SENATE
JIAN-QIAO SUN, CHAIR
senatechair@ucmerced.edu

UNIVERSITY OF CALIFORNIA, MERCED
5200 NORTH LAKE ROAD
MERCED, CA 95343
(209) 228-7954; fax (209) 228-7955

April 20, 2015

To: Mary Gilly, Academic Council

From: Jian-Qiao Sun, Chair, Division Council

Re: Systemwide Senate Review: Proposed Revised Presidential Policy on Sexual Harassment and Sexual Violence

Dear Mary,

The Merced Division Academic Senate has no comments to offer on the systemwide review of the revised Presidential Policy on Sexual Harassment and Sexual Violence. We fully support the Policy.

Thank you for the opportunity to opine.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Sun'.

Jian-Qiao Sun, Chair
Division Council

CC: Division Council
Senate Office



CHAIR, ACADEMIC SENATE
RIVERSIDE DIVISION
UNIVERSITY OFFICE BUILDING, RM 225

JOSE WUDKA
PROFESSOR OF PHYSICS AND ASTRONOMY
RIVERSIDE, CA 92521-0217
TEL: (951) 827-5538
E-MAIL: JOSE.WUDKA@UCR.EDU

April 22, 2015

Mary Gilly, Chair, Academic Council
1111 Franklin Street, 12th Floor
Oakland, CA 94607-5200

RE: Presidential Policy on Sexual Harassment and Sexual Violence

Dear Mary,

Executive Council discussed the revised version of the Presidential Policy on Sexual Harassment and Sexual Violence. Council supports the policy and had no further comments.

The UCR Division appreciates the opportunity to comment.

Sincerely yours,

A handwritten signature in black ink that reads "J Wudka".

Jose Wudka
Professor of Physics & Astronomy and Chair of the Riverside Division

CC: Hilary Baxter, Executive Director of the Academic Senate
Cynthia Palmer, Director of UCR Academic Senate office



ACADEMIC SENATE

Santa Barbara Division
1233 Girvetz Hall
Santa Barbara, CA 93106-3050

(805) 893-2885
<http://www.senate.ucsb.edu>

Kum-Kum Bhavnani, Chair
Deborah Karoff, Executive Director

April 22, 2015

Mary Gilly, Chair
Academic Senate

RE: Proposed Revisions-Sexual Harassment and Sexual Violence Policy

Dear Mary,

The following groups opined on the Proposed Policy on Sexual Harassment and Sexual Violence: Graduate Council (GC), Council on Faculty Issues and Awards (CFIA), Council on Research and Instructional Resources (CRIR), Committee on Equity and Diversity (CDE), Committee on International Education (CIE) and the Faculty Executive Committee of the Graduate School of Education (GGSE FEC). In general, most groups find this latest version of the policy to be improved overall, and many groups commented that the policy was clearer and easier to understand. Specific comments and suggestions are outlined below.

The following issues were raised:

1. It was felt there is a need for additional information attached to the policy in the form of a table or a flowchart that describes and compares the various reporting options and available resources. With regard to the latter, it was felt that it would be very helpful to outline the pros and cons of reporting to one group versus another, whether such reporting is confidential or not, whether each provides counseling/emotional support or not, whether there is mandatory reporting to Police/Judicial Affairs, and similar. Additional information would allow potential reporters to better understand and evaluate the various reporting options. Such a table/flowchart of information could also include easy access to contact information (phone number, email address, physical location, etc.).
2. It was also noted that the list of resources could appear overwhelming, particularly to someone who has had a traumatic experience.
3. Some confusion was expressed about the specification of Designated Employees. One group noted that in the definitions it states that all employees are designated for reporting purposes but in references to Section V.F. some employees are "designated personnel" as resources for confidential consultations. If the obligation on employees is to report specific instances of sexual

violence/harassment, then it is suggested the language be more specific about that expectation. In addition, it is unclear who designates such employees, and if one is designated, what exactly one is expected to do.

4. There was some concern that faculty and students are often unaware of the limits of the promise of confidentiality and there was a request that the policy clarify the limits of confidentiality.
5. There was a request for a greater clarity about the distribution of the policy and what training is mandatory for which campus constituency. How will the policy and its expectations be communicated to faculty and staff?
6. A question was raised as to whether there would be different training requirements for undergraduate students as distinct from graduate students, given the different experiences of each group.
7. There was concern that the “geographic reach” of the policy be important for any campus that has a concentrated number of students who live off campus. In the last version of the policy (distributed in Fall, 2013), there was a phrase in the policy about “auxiliary University locations.” That phrase is now absent from the latest version but clarification is needed about the geographic reach of the policy and the degree to which the policy covers off campus activity between and among members of the campus community.
8. There should be stronger language on action once an offense is established and the consequences should be proportionate to the violation.
9. In regards to Retaliation (Section III, F.), the mechanisms and pathways for preventing harm and monitoring compliance should be addressed in the policy. The question was also asked whether the Title IX Office is the appropriate office to deal with retaliatory acts in addition to trying to prevent such acts.
10. One group praised the fact that the policy will be available in Spanish and in Chinese. They also suggested that translators be provided, if needed, which is similar to what the courts do for non-native English speakers.
11. Finally, it was recommended that the required training be mandatory every year for ease of administration and tracking.

Thank you for the opportunity to comment.

Sincerely,



Kum-Kum Bhavnani, Chair
Santa Barbara Division



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9500 GILMAN DRIVE
LA JOLLA, CALIFORNIA 92093-0002
TELEPHONE: (858) 534-3640
FAX: (858) 534-4528

April 20, 2015

Professor Mary Gilly
Chair, Academic Senate
University of California
1111 Franklin Street, 12th Floor
Oakland, California 94607-5200

SUBJECT: Response to proposed revisions to the UC Policy on Sexual Harassment and Sexual Violence

Dear Mary,

The proposed revisions to the UC Policy on Sexual Harassment and Sexual Violence were reviewed by the Divisional Committee on Diversity and Equity, the Committee on Faculty Welfare, the Committee on Privilege and Tenure, the Committee on Academic Personnel and the Committee on Academic Freedom, and were discussed at the April 13th Senate Council meeting. Several questions and general concerns arose concerning the role that a campus should play in the adjudication of matters that cross into criminal conduct. A summary of those questions and concerns follows.

The proposed revision to Section V(B)(4)(j)(i)(2) will affect confidentiality clauses in faculty settlement agreements, because the sanction imposed against the respondent will now be disclosed to the complainant. Traditionally, settlement agreements that remove a faculty member from a campus include a confidentiality clause. When the facts of a case are not in dispute, a faculty member may choose to resign rather than face an extended Privilege and Tenure hearing. One condition of the resignation is almost always a confidentiality clause. What impact will the effect of this change in policy have on those settlement agreements, and will this effect be in the best interests of the complainant and the campus?

And related to this question, would the disclosure violate the Family Educational Rights and Privacy Act?

Senate Council would like to see the relationship between Divisional Committees on Privilege and Tenure and the Title IX Offices on the campuses better defined to ensure that the process does not break down between the two entities and also to ensure that there is faculty oversight where appropriate. While the staff in the Title IX Offices are acknowledged to be well-trained professionals, a good process should include the appropriate checks and balances.

Another issue raised at Senate Council was whether appropriate safeguards were in place to ensure that the respondents' due process rights are not infringed. Of note is the rise in cases being brought against universities by students complaining that their due process rights were denied in the adjudication of cases against them. The Senate noted that the policy did not clarify the rights of the respondents, and while addressing the complainants' cases with the proper respect and expediency is important, without specific processes or guarantees in place, the rights of respondents may be violated.

To ensure that the respondent's rights are not violated, perhaps some type of (Miranda-like) warning should be given prior to questioning of the respondent when an administrator is conducting an investigation.

Broadly speaking, the Senate Council's discussion turned to the overall appropriateness of treating a criminal matter, sexual assault, as a Title IX issue and placing its adjudication in the hands of a university, which is not equipped to handle criminal matters. If the complainant files a criminal complaint, trained law enforcement professionals will be engaged in the investigation. Should the complainant be encouraged to file a criminal complaint and the legal process leveraged by the university?

Thank you for the opportunity to comment on this important subject.

Sincerely,



Gerry Boss, Chair
Academic Senate, San Diego Division

cc: R. Continetti
R. Rodriguez
H. Baxter

April 20, 2015

Mary Gilly, PhD, Chair
Academic Council
Systemwide Academic Senate
University of California Office of the President
1111 Franklin Street, 12th Floor
Oakland, CA 94607-52000

Re: *University of California Revised Presidential Policy Sexual
Harassment and Sexual Violence*

Dear Chair Gilly:

The San Francisco Division of the University of California Academic
Senate received and reviewed the [Proposed Revised Presidential Policy
- Sexual Harassment and Sexual Violence](#).

On the whole, the San Francisco Division believes the revised
Presidential Policy to be comprehensive, and adequately responds to
recent changes in State legislation in this area. The UCSF Committee on
Equal Opportunity has reviewed this policy and finds the language to be
clearer, improves the accessibility to contact persons, and delivers better
guidance through the FAQs.

Please feel free to contact Executive Senate Director Todd Giedt
(415.476.1307; todd.giedt@ucsf.edu) or myself with any additional
inquiries.

Sincerely,



Farid Chehab, PhD, 2013-15 Chair
UCSF Academic Senate
Professor, Department of Laboratory Medicine

Encl.: 1

COMMUNICATION FROM THE CHAIR OF COMMITTEE ON EQUAL OPPORTUNITY
Janice Tsoh, PhD

April 20, 2015

Farid Chehab, PhD, Chair
UCSF Academic Senate
500 Parnassus Avenue, Box 0764
San Francisco, CA 94143

Re: System-wide Review of Proposed Revised Presidential Policy on Sexual Harassment and Sexual Violence

Dear Chair Chehab:

The Committee on Equal Opportunity (EQOP) has reviewed the [Proposed Revised Presidential Policy on Sexual Harassment and Sexual Violence](#) and has no additions to the revisions. UCSF EQOP understands that these modifications were made to ensure compliance with [Senate Bill 967](#) and finds the policy consonant with those principles. Additionally, EQOP felt that the language is clearer, accessibility to contact persons is improved, and the FAQs provide better guidance. Lastly, EQOP lauds the clarification of 'incapacitation due to alcohol /drugs'.

Thank you for the opportunity to review this important policy. Should you have any questions, please do not hesitate to contact me.

Sincerely,



Janice Tsoh, PhD, Chair
UCSF Committee on Equal Opportunity



UNIVERSITY COMMITTEE ON FACULTY WELFARE (UCFW)
 Joel Dimsdale, Chair
jdimsdale@ucsd.edu

Assembly of the Academic Senate
 1111 Franklin Street, 12th
 Oakland, CA 94607-5200
 Phone: (510) 987-9466
 Fax: (510) 763-0309

April 20, 2015

**MARY GILLY, CHAIR
 ACADEMIC COUNCIL**

RE: Proposed Revised Presidential Policy – Sexual Harassment and Sexual Violence

Dear Mary,

The University Committee on Faculty Welfare (UCFW) has discussed the proposed revised Presidential Policy for Sexual Harassment and Sexual Violence, and we have significant concerns. First, we caution the University not to be hasty in the development of this policy; the need to act quickly should not outweigh the obligation to act wisely. Indeed, the fact that several of our campuses are currently under federal investigation for Title IX violations suggests that additional policy changes will be needed in the future. Of course the University cannot simply await those findings before taking any action, but the proposed policy contains several issues that should be clarified in advance of policy promulgation.

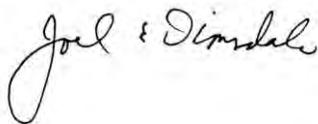
- There is a different definition of harassment for students than for other groups (p. 2). On p. 9 the standard for taking disciplinary action against a non-student is similar to the definition of harassment for a student. It might be useful to state clearly that not all violations of the policy are a basis for disciplinary action.
- On p. 9 remedies short of disciplinary action are described. It would be useful to clarify that these remedies may be ordered by the Title IX officer or other appropriate official upon an Early Resolution or Formal Investigation. These remedies do not require a disciplinary action. They may be subject to a grievance under the relevant rules.
- The obligation of “designated employees” to report is confusing. At p. 21 a failure to report is not listed as a violation of the policy that is a basis for disciplinary action. This clearly is correct as a matter of policy, but it would be helpful to clarify when a failure to report would be a basis for disciplinary action.
- The policy is unclear regarding the obligation of emeriti(ae) to report and be trained.
- The standards for evidence are different in this policy than for Privilege and Tenure cases and for disciplinary actions (where the standard is clear and convincing evidence under Senate Rule 336.D.8.). The policy provides that “the report [from a Formal Investigation] can be used as evidence in other related procedures” including a disciplinary action. It would be useful to clarify that while the report can be used in evidence the findings are not binding in a related procedure, particularly when there is a different standard of proof.
- The policy does not address priority for those who wear multiple hats, such as graduate student researchers, graduate student instructors, or house staff (interns and residents).
- The potential increase in workload for Title IX officers seems overwhelming.

- Many students trust their faculty advisor more than campus police or bureaucrats. Students must know in advance that faculty are mandated reporters, otherwise additional trauma might result from good intentions. Faculty training must emphasize this point, as well as materials presented to students.
- The ability of respondents to access and assess evidence is unclear.
- The policy asserts a requirement to report that conflicts with other confidentiality regulations (doctor-patient, etc.) that govern student health, psychological counseling, and the medical centers. An allegation of harassment is not currently subject to a mandated reporting requirement in those areas, so additional clarification is needed on this point.
- Notification procedures for when a final decision has been made are not outlined.

Taken together, this list indicates that significant emendation of the proposal is required before it can be adopted.

Finally, we encourage subsequent reviewers to ensure that the focus of the policy is on protecting the needs and rights of the complainant and respondent.

Sincerely,

A handwritten signature in cursive script that reads "Joel E. Dimsdale".

Joel E. Dimsdale, UCFW Chair

Copy: UCFW
Hilary Baxter, Executive Director, Academic Senate

Date of Hearing: May 6, 2015

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Jimmy Gomez, Chair

AB 798 (Bonilla) – As Amended April 6, 2015

Policy Committee: Higher Education

Vote: 12 - 1

Urgency: No

State Mandated Local Program: No

Reimbursable: No

SUMMARY:

This bill establishes, until July 1, 2020, a state grant program to incentivize increased adoption of open source educational resources at campuses of the California Community Colleges (CCC), the California State University (CSU), and the University of California (UC). Specifically, **this bill:**

- 1) Establishes the Open Educational Resources Adoption Incentive Fund to provide incentives and rewards for campus and faculty efforts to accelerate use of open educational resources in order to reduce students' cost and improve access to such materials.
- 2) Stipulates that moneys in the fund are to support faculty professional development, open educational resource curation activities, and technology support for faculty.
- 3) Authorizes campuses, upon adoption of a local resolution, to submit the resolution to their respective campus governing board for an initial grant to establish a strategy, as specified, for meeting the above goals. The strategy is to include three campus-determined benchmarks for each of the following three years.
- 4) Requires the respective segment offices to review, approve, and administer the grants.
- 5) Stipulates that after receiving the initial grant, the campuses shall receive bonus grants in each of the following three years if they meet the corresponding benchmarks for those years. The maximum amounts of the initial grant and bonus grants are unspecified.
- 6) Stipulates that the bonus grants are to be administered locally by the academic senate. in collaboration with the campus president, provost, or chief academic officer and the campus student body organization.
- 7) Requires the Chancellors of the CCC and the CSU and the UC President to report annually whether the grants are increasing the rate of adoption of open source educational resources and decreasing students' textbook costs.

FISCAL EFFECT:

At least several million dollars would be needed for a viable, multi-year grant program available to the over 150 campuses in three systems. Moreover, depending on the number of campuses in each segment seeking grants, each of the systemwide offices would need a half- or full-time position, at \$70,000 to \$140,000 (General Fund) annually to establish and oversee the grant

program. To the extent the program makes more OER resources available to more students, significant savings in textbook costs could accrue to students.

COMMENTS:

- 1) **Purpose.** According to the author, in order to reduce costs for students and increase the rate of adoption of OER, faculty need support on their local campus to help learn about new technology available and to find the time to update their courses in order to use OER. The author states, "AB 798 provides the funding and incentive necessary to support professors when they choose to adopt OER. The College Textbook Affordability Act recognizes that this support will be different for every local campus depending on existing programs, makeup of student body and number of professors. Each local campus can create a plan that will specifically address the hurdles to OER on their local campus."
- 2) **Background.** According to the College Board, the average undergraduate student should budget between \$1,200 and \$1,300 for textbooks and supplies each year—roughly equivalent to annual CCC fees for a full-time student and 25% of tuition costs at CSU. A 2014 study by Public Interest Research Groups (Student PIRGs) found that 65% of students skipped buying or renting a textbook because it was too expensive, and 94% of those students felt that in so doing, their grade would suffer in a course. Additionally, almost half of the students said the cost of textbooks impacted how many courses they were able to take.

OER are educational materials such as textbooks, research articles, videos, assessments, or simulations that are either licensed under an open copyright license or are in the public domain. OERs provide no-cost access and no-cost permission to revise, reuse, remix, or redistribute the materials. According to a 2012 policy brief by the Center for American Progress and EDUCAUSE, digital OERs enable faculty to customize learning materials to suit their course objectives and can provide students with a more flexible set of tools that can contribute to a richer learning experience.

- 3) **Prior Legislation.** SB 1052 (Steinberg)/Chapter 621, Statutes of 2012, established the California Open Education Resources Council, composed of three faculty members each from UC, CSU, and the CCC, to develop a list of 50 lower division courses across the three segments for which high-quality, affordable digital open source textbooks and related material shall be developed or acquired, to create and administer a review and approval process for open source materials, and to establish a competitive request-for-proposal process in which faculty members, publishers, and other interested parties would apply for funds to produce 50 high-quality, affordable, digital open source textbooks and related materials. An appropriation of \$5 million was provided for this effort, to be matched by nonstate funds. To date, only about \$1 million has been matched.

In its most recent progress report, the Council reports that it has thus far selected the 50 courses, identified more than 150 appropriate OERs for these courses, developed a standardized peer review and approval process, and recruited faculty to conduct the reviews. As of March 2015, the Council reports that reviews are completed for 10 courses, involving 34 OER textbooks. The review process is being coordinated for 40 additional courses and 120 additional reviews.

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May 1, 2015

To: Jian-Qiao Sun, Chair, Division Council

From: Raymond Gibbs, Chair, Committee on Academic Personnel (CAP) *Raymond Gibbs*

Re: Proposed Revisions to APM 210-D

At the request of Division Council, CAP reviewed the proposed revisions to APM 210-D. CAP endorses the proposed revisions as they provide useful clarification on the impact of the contributions to diversity in the academic review process.

CAP appreciates the opportunity to opine.

cc: Division Council Members
Senate Office

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May 11, 2015

To: Jian-Qiao Sun, Chair, Division Council

From: David C. Noelle, Chair, Committee on Research (COR)

A handwritten signature in cursive script that reads "David C. Noelle".

Re: Proposed Revisions to APM 210-D Contributions to Diversity

COR reviewed the proposed revisions to APM 210-D concerning contributions to diversity in the academic review process. Although the committee sees further opportunities for improvement to the proposed language, the committee endorses the revisions.

COR appreciates the opportunity to opine.

cc: COR members
Division Council members
Senate Office

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May 11, 2015

To: Jian-Qiao Sun, Chair, Division Council

From: Rudy Ortiz, Chair, Committee on Faculty Welfare, Diversity, and Academic Freedom (FWDAF)

A handwritten signature in black ink, appearing to read "R. Ortiz", is positioned below the "From:" line.

Re: Final Review of Proposed Revisions to APM 210-D

FWDAF reviewed and discussed the proposed revisions to APM 210-D pertaining to contributions to diversity in the academic review process. The committee endorses the proposed changes as they will enhance faculty welfare and diversity.

FWDAF appreciates the opportunity to opine.

cc: FWDAF members
Division Council members
Senate office