

COMMITTEE ON FACULTY WELFARE & ACADEMIC FREEDOM (FWAF)**Tuesday, March 10, 2020****1:45 – 2:45 pm****Meeting Minutes**

Pursuant to call, the Committee on Faculty Welfare and Academic Freedom met at 1:49PM in Kolligian Library Room 360, Chair Carolin Frank presiding.

I. Chair's Report – ***Carolin Frank***

At UCAF, concerns about academic freedom were expressed that instructors were being forced to share intellectual property, and that the University might be going to move toward online teaching. UCAF is preparing a statement on academic freedom in education.

II. Statement on Academic Freedom –***Chair Frank, with Chief Campus Counsel Gunther***

Chief Counsel Gunther was invited to provide legal advice and perspectives on a potential campus Statement on Academic Freedom, to be drafted by FWAF and reviewed by Division Council. Counsel Gunther began her presentation by the legal distinction between free speech, as a private citizen, and speech as an academic protected by academic freedom. Academic freedom protects the academic enterprise/institution from interference, retaliation or other forms of control that would impose/encroach upon freedom of academic inquiry and instruction. Thus, academic speech might fall outside of the bounds of academic freedom, and would be viewed through the lens of the free speech, such as when an academic is not speaking in classroom, or is speaking of matters irrelevant to their academic area in classroom. In the latter case, the institution as the employer might consider the statement as an employee not protected as free speech.

The Counsel reiterated that, given her non-academic background, she feels her abilities are limited in the interpretation of academic freedom, to assess whether a particular remark by an academic in a classroom would qualify as protected speech or not based on the relevancy to the academic area of the instructor. She also emphasized that the institution, not individual instructors, owns the academic freedom, and can hold people accountable based on its own rules, through the Academic Senate. The flipside of this is that academic freedom cannot be applied to non-members of the institution, either to justify or deny activities and speeches that are outside the institution's own. (For this reason, UCM has used the facilities use restrictions to control what events can be hosted.)

Regarding hate speech, the Counsel noted that it is generally considered protected speech; an institution has ability to restrict employees about hate speech, but not others. Non-employee speech restriction applies only when the speech is direct threat targeted at individual(s), inciting people to immediate violence, or is considered targeted and pervasive harassment. Otherwise, only certain forms of speeches that are considered conduct can be disciplined. In a classroom setting, the Counsel advises that the instructors set ground rules that would enable them to have control over student conduct involving speeches (for example, "speak only when recognized by the

instructor” in the syllabus, and that students must leave if they disrupt). The Counsel agreed to review FWAF’s draft statement on Academic Freedom in the future.

III. Vice Chair’s Report – **David Jennings**

Vice Chair Jennings provided Periodic Review Oversight Committee (PROC) updates. In concluding the Chemistry and Chemical Biology Program review, a question was raised about whether or not to allow concurrent review of undergraduate and graduate programs. External reviewers recommended doing so, for the aligned programs. Also, there was a discussion of what constitutes a good reason for postponing review. Requests for postponing reviews have been denied in the past. PROC is discussing possible guidelines for postponing reviews.

IV. University Committee on Faculty Welfare (UCFW) updates – **Jayson Beaster-Jones**

At the February UCFW meeting, there were discussions of divesting from fossil fuel industry, and of diversity requirements in faculty searches, especially about a cluster hire at another UC campus, wherein diversity materials were used as the first criteria, and, as a result, 75% of candidates were disqualified. There was criticism of how the University is advocating for one particular kind of idea of diversity. It was also mentioned that discussion of including diversity as the 4th component of faculty personnel reviews has taken place at other UC campuses.

V. Consent Calendar

A. Today’s agenda

B. [Draft February 11, 2020 meeting minutes](#)

ACTION: The consent calendar was approved as presented.

VI. Review of UC Merced Division Bylaws – **Jayson Beaster-Jones**

At [CRE’s request](#), all Senate standing committees are reviewing their bylaws and are invited to propose revisions by March 20. At FWAF’s February 11 meeting, it was suggested that a retiree be added to FWAF membership, given that many topics under FWAF’s purview are related to retirees. UCFW liaison Beaster-Jones was informed at a UCFW meeting that all other campuses have a retiree as a FWAF member, and has drafted proposed revised bylaws, which were made available to FWAF members prior to this meeting.

After some discussion on how to implement the proposed revision, the proposed revised bylaws were unanimously approved as presented.

ACTION: The committee analyst will draft a cover memo explaining the reasons for the bylaw revision request, and transmit the memo and suggested bylaw revisions to CRE by March 20, 2020.

VII. Proposal to Add a Teaching Professor to CAP’s Membership – **David Jennings**

Vice Chair Jennings debriefed FWAF members on his consultations with DivCo and CRE. The discussion at DivCo stalled but the discussion at CRE was more productive. At the CRE meeting, Vice

Chair Jennings pointed out there was no rule against having a Teaching Professor on CAP but no rule allowing it, either.

According to the information provided by UC Irvine's Senate analysts, Irvine's CAP includes a Teaching Professor.

Possible next steps would be to have additional conversations with CRE, perhaps in partnership with D&E. Finally, a presentation could be made to DivCo. He also suggested that UCM bylaws would benefit from stipulations for equitable representation of different schools, or at least a "best practice" language to encourage diversity. Members agreed that diversity in CAP is important.

ACTION: This item will be placed on the next FWAF agenda so the committee can identify the strategy to move forward, whether by inviting chairs of other committees (such as CoC), or by requesting to make a presentation at other committees (such as CRE, D&E, and CoC).

VIII. Faculty Survey on Co-Working Space for Spouses – **Chair Frank**

Prior to this meeting, FWAF members received a draft proposal from a faculty member on co-working space for faculty spouses. Senate Chair Hansford has requested that FWAF conduct a survey to gauge interest in co-working space. FWAF members will finalize the content of the survey.

ACTION: This item will be handled by email.

IX. Campus Review: Provost's proposal for revising faculty compensation for Summer Session Instruction --**Lead Reviewer: David Jennings**

Background: Last year the joint Senate-administration Budget Working Group (BWG) reviewed the summer session compensation and revenue-sharing models for the campus and compared it to peer UC institutions. The group's analysis concluded that the campus should consider a) replacing the current salary cap of \$10,000 on summer session instructional remuneration to Senate faculty with a model that would incentivize Senate faculty participation in summer session teaching, and b) reevaluate the distribution of summer session revenues to better serve the campus mission, principally by increasing summer session support for academic operations.

The Senate was asked to comment on the Working Group's proposed model for summer session faculty compensation. The intention is to implement the new model in time for faculty to consider their participation in the 2020 summer session.

Vice Chair Jennings pointed out that the discrepancy in compensation between having 15 students versus 14 students can be very significant for those instructors earning \$75,000 or more. For those earning less than \$75,000, there is a perverse incentive to have fewer than 15 students.

ACTION: The committee analyst will transmit FWAF's comments to the Senate Chair by March 12, 2020.

X. Systemwide Review

A: Proposed Presidential Policy on Gender Recognition and Lived Name –**Lead Reviewer: Carolin Frank**

Background: The Office of the Vice Provost for Diversity and Engagement drafted the proposed policy in response to the passage of SB-179, Gender Recognition Act. It is proposed that the policy be fully implemented by UC campuses and locations by July 1, 2021, and it includes the following key issues:

- The University must provide three equally recognized gender options on university-issued documents and information systems — female, male and nonbinary.
- The University must provide an efficient process for students and employees to retroactively amend their gender designations and lived names on university-issued documents and in information systems.
- The legal name of university students, employees, alumni and affiliates, if different than the individual's lived name, must be kept confidential and must not be published on documents or displayed in information systems that do not require a person's legal name.

ACTION: Due to time constraints, this item will be handled via email. FWAF's comments are due to the Senate Chair by March 20, 2020.

B. [Revised Presidential Policy on Travel Regulations](#)

Background: The Office of the Executive Vice President/Chief Financial Officer is proposing revision to the travel regulations. The main changes in this revision are:

- Incorporation of the Internal Audit recommendations regarding documentation necessary to support first or business class travel, and the need to document the business purpose of each day of the trip;
- Update the policy for the new IRS business mileage reimbursement rate effective January 1, 2020;
- Substitute gender-neutral language throughout the policy;
- Add a new section on sustainable travel; and
- Clarified what is included in the foreign per diem and link to the Department of State website in Appendix B.

A lead reviewer was identified.

ACTION: This item will be handled by email. FWAF's comments are due to the Senate Chair by 5:00 pm on April 6, 2020.

There being no further business, the meeting was adjourned at 2:58PM.

Attest: Carolin Frank, FWAF Chair