

**COUNCIL ON FACULTY WELFARE, DIVERSITY, AND ACADEMIC FREEDOM  
ANNUAL REPORT  
2018 – 2019**

**To the Irvine Divisional Senate Assembly:**

The Council on Faculty Welfare, Diversity and Academic Freedom (CFW) respectfully submits its report of activities for the 2018-19 academic year.

**I. INTRODUCTION**

The Council on Faculty Welfare, Diversity and Academic Freedom (CFW) considers issues relevant to faculty welfare, academic freedom, affirmative action and diversity, and emeriti affairs. Its membership and duties are described in Irvine Bylaw 99. Professor Stephen Tucker chaired CFW during the 2018-19 academic year with James Danziger serving as interim chair as needed. The Council Chair served as the Council's representative to the Senate Cabinet, the Irvine Divisional Senate Assembly, and the University Committee on Faculty Welfare (UCFW).

The Council sent representatives to two other UC committees (University Committee on Academic Freedom – Mei Zhan; University Committee on Affirmative Action and Diversity – Matthew Foreman), and the UCI Committee on Child Care (Lorraine Lau-Gesk). The Council has four standing subcommittees: Emeriti Affairs, Faculty Welfare, Academic Freedom and Affirmative Action & Diversity. The Subcommittee for Emeriti Affairs consisted of the four emeriti members of the Council and the Chair of the UCI Emeriti Association (UCIEA). The other faculty members served on one of the other three subcommittees.

CFW met eight times during the 2018-19 academic year. The Council reviewed and discussed a wide range of issues, proposals, policies, and reports as detailed below.

**II. COUNCIL ISSUES**

**A. Member Issue Regarding SB 54**

*Meeting date: 10/9/2018*

A member expressed concern regarding immigration and local and federal law enforcement, particularly with Senate Bill No. 54, which was approved by the Governor and Filed with the Secretary of State on October 5, 2017.

Members were presented with information and it was encouraged that members reaffirm SB 54 to support undocumented students. Members were urged to support the statement issued by UC President Napolitano regarding "legislation that protects DACA recipients and provides them a path to citizenship." The concerned member drafted a resolution to be brought to an Irvine City Council meeting stating CFW's support of the California Values Act, and it was unanimously approved.

Due to lack of quorum at the October 9, 2018 Irvine City Council meeting, this particular resolution was not discussed. No further action at this time.

**B. Peer Review Committee – Background and Charge**

*Meeting date: 10/9/2018*

UC President Napolitano appointed a Joint Committee of the Administration and Senate in October 2015 to examine the processes and policies governing Sexual Violence and Sexual Harassment (SVSH) cases, investigations, and sanctioning. In May 2016, the Joint Committee provided numerous recommendations, including creating a campus Peer Review Committee (PRC) on each campus. The UCI PRC has been constituted since February 2017 and provides a recommendation of discipline in all SVSH cases involving a faculty respondent. There are currently five members, nominated by the Academic Senate. In Fall 2018, the Committee will expand to eight members, and in Fall 2019, the Committee will expand to ten members.

Diane O'Dowd, Vice Provost for Academic Personnel presented that the adjudication of SVSH cases have two phases: the complaint process and adjudication. The Office of Equal Opportunity and Diversity (OEOD) reviews all complaints. There is a staff of full-timed trained investigators that focus on consistency and retain institutional records. They are currently hiring additional investigators. The new adjudication framework process is as follows: if an OEOD investigation finds a policy violation (by the preponderance of evidence standard), then the findings would go forward to a PRC, which is composed of Senate-nominated faculty. A subcommittee of 3 PRC members would review the OEOD report and all information from the Vice Provost of Academic Personnel (VPAP). The subcommittee would provide a recommendation of discipline to the VPAP. Both the respondent and the complainant provide input on a resolution. The PRC is informed of the final outcome of each case.

The Campus Assault Resources and Education (CARE) advocates provide confidential support, assistance navigating the process, and answers questions for complainants. Complainants can request interim measures (which may include no contact, restrictions on events or places, etc.), and provide input to VPAP to be transmitted to the PRC before recommendations are made. Respondent Support Services are available for respondents, and they provide assistance in navigating and process and answering questions. A respondent can grieve interim measures with CPT or consult with the Senate at any time. They may also provide written or verbal input to the VPAP to be transmitted to the PRC before recommendations are made. Current faculty have the right not to have a case go to CPT if early resolution is reached within 40 days.

Types of discipline imposed on respondents may include a letter of censure, reduction in salary, demotion, suspension without pay, denial or curtailment of emeritus status, and dismissal from the university. Early resolution sanctions may include restrictions on teaching/mentoring, and restrictions on administrative roles and/or office location. Interim measures can be grieved through CPT. There were five SVSH cases managed through the VPAP, and they required a large investment of time. Members expressed concern that there was an impression that the Senate was not an advocate for Complainants. Members were concerned that some faculty could afford better attorney representation than others.

**C. Systemwide Senate Review of Proposed Presidential Policy on Sexual Violence and Sexual Harassment (SVSH)**

*Meeting date: 10/9/2018*

*Memo date: 10/25/2018*

Academic Council requested a review of the proposed Presidential Policy on Sexual Violence and Sexual Harassment after significant feedback from campus constituents. The Council discussed that the policy should state that there is no timeline limit for reporting. The policy should specify what “less serious allegations” mean.

The Council had the following questions: 1) How will the University of California fund the education, training, and campaign responsibilities of the Title IX Officer? 2) How will the University of California enable locations to “provide training for University employees who are responsible for reporting or responding?” 3) How will the University of California fund the staffing that will enable locations to “designate persons who can offer confidential consultations?” 4) How will the University of California fund “an independent, confidential Advocacy Office?” 5) How will the University of California fund “Respondent Services Coordinator?” 6) What are the mechanisms to enforce participation in the “mandatory annual training?” 7) How can the University of California ensure that the learning outcomes of the “mandatory annual training” are realized? 8) What are the consequences if students, faculty, other academic appointees, and staff do not comply or pass the required training?

#### **D. University Hills Bike Lanes**

*Meeting date: 11/13/2018*

In 2016, ICHA created a University Hills Transportation Task Force (UHTTF) to address conflicts regarding cars, bicyclists, and pedestrians. With feedback from the task force, community members, and consultants, changes were made in August 2018 that resulted in removal of various bike lanes in the community. Community members have expressed serious concern and have requested to have the bike lanes restored.

Victor Van Zandt, President and CEO of ICHA, presented that ICHA created the UHTTF to engage the community regarding transportation issues. They received 150-200 comments at their booth at the Fall Fiesta. There were quantitative studies done on bicycle and vehicle traffic. The report made recommendations in four categories: engineering, education, enforcement, and evaluation. These categories included infrastructure to prevent or reduce collisions, methods to inform and remind residents and visitors about the rules of the road, a more visible police presence, and how to measure the implementation of changes. It was suggested that ICHA make residents aware of any changes before they are implemented. A member inquired about increased enforcement by UCIPD in University Hills, and requested specific numbers regarding the types of enforcement. The numbers are not available at this time, but more information should be available in the future.

#### **E. ADA Compliance and Accessibility**

*Meeting dates: 11/13/2018, 12/11/2018, 1/8/2019, 2/12/2019*

*Memo dates: 12/17/2018, 2/20/2019*

During the discussion with the Vice Chancellor of Health Affairs at its 2/14/2017 meeting, a Council member expressed serious concern with UCI's lack of ADA compliance on the main campus and medical facilities. The Council would like to invite a

campus Compliance Officer to present updates regarding current ADA compliance and accessibility, and plans to bring facilities up to date.

Gwen Kuhns-Black, Associate Director, OEOD, presented that UCOP general counsel is currently searching for an ADA expert to manage UC issues and disability laws. The UCIMC website has a specific site dedicated to access and accommodations. Staff have been directed to answer phone calls regarding accommodations. There are also maps of the multiple facility sites that include specific access points and paths of travel. OEOD receives third party reports from individuals who may observe ADA issues, such as obstructions, or may report that particular staff were not aware of how to provide accommodations or referrals. The Disability Infrastructure Workgroup meets monthly, and is looking at various studies made on accessibility. Additional funding is needed to update evacuation chairs in campus buildings. Most funding is allocated for construction-related projects, but other funding is being proposed.

Universal design and technical compliance were discussed as options moving forward. It was explained that universal design includes a whole population, but while technical compliance meets minimum regulations and standards, but does not always accommodate for every individual. Currently, funding for technical compliance is easier to obtain. A goal would be to have a compromise between both options. Members agreed that all accommodations should be for everyone, and not just a subset of the population. There is currently no quantitative data on ADA compliance at UCI. Digital accessibility is currently voluntary for departments. Facilities Management is being pushed to provide more concrete deadlines for accessibility updates. Members expressed concern that there could be legal repercussions if the campus does not systematically resolve compliance issues.

The Council urged UCI, under the stewardship of the Office of Equal Opportunity and Diversity (OEOD) and the Disability Infrastructure Work Group, to accelerate its efforts towards assessing the current status of physical and programmatic accessibility of the UCI campus. It was also encouraged that those bodies set a standard beyond mere compliance with federal mandates and make UCI a leader in creating an accessible environment that is welcoming and inclusive of individuals with disabilities.

The inclusion of individuals with disabilities is an important, though underdeveloped, part of UCI's goals of inclusive excellence. Not until UCI has achieved universal physical and programmatic access for students, staff, faculty, and visitors, can UCI be described as accomplishing the University's stated mission of serving as a "national leader and global model of inclusive excellence, where all faculty, graduate and undergraduate students expect equity, support diversity, and practice inclusion."

The Council was encouraged by the current efforts on campus. Under the direction of Senior Associate Director Gwendolyn Kuhns Black, the OEOD has worked with partners across campus to improve physical access at the University of California, Irvine campus and Medical Center (UCIMC). Efforts include improving physical access and distributing information on the availability of reasonable accommodations at UCIMC, including providing maps on public websites and improving call center recordings to incorporate information about barrier-free building entrances. The IT Accessibility Work Group continues to assess how to improve digital access on campus including website

accessibility to the design of course content. The Disability Infrastructure Work Group is working with Facilities Management and other campus partners to increase the number of accessible building entrances and restrooms throughout the campus and the campus has allocated and leveraged some limited funding from several sources, and routinely adds up to twenty percent of estimated construction costs to any Major Renovation Project to address identified physical barriers to access.

Now that a full-time campus ADA Coordinator has been hired at the OEOD, it was anticipated that UCI will allocate additional funds and identify the responsible unit for ensuring that programs, services, and opportunities offered by the University are accessible to individuals with various types of disabilities; policies, procedures, and practices regarding physical and programmatic access are centralized; UCI's compliance with the ADA (and other disability-related legal mandates, such as the Family and Medical Leave Act (FMLA)) is systematically assessed, the University continues efforts to address any shortcomings is ensured; the University will launch a campus-wide educational campaign to increase awareness of the university's ADA compliance responsibilities and its commitment to the inclusion of people with disabilities as part of its mission of inclusive excellence is developed.

The Council was particularly concerned that the UCI campus has not updated its Transition Plan or fully re-assessed the campus architectural plans for ADA compliance since 1995. The 1990 federal law mandates that institutions make reasonable accommodation to people with disabilities that include, but are not limited to, "making existing facilities used by employees readily accessible to and usable by individuals with disabilities." Both the ADA and Section 504 of the Rehabilitation Act of 1973 impose obligations upon the University to address structural barriers to inclusion—including architectural, programmatic, and digital barriers—and to accommodate individual students with disabilities. It also has an obligation under both federal law, the California Fair Employment and Housing Act, and UC policies to provide reasonable accommodation to individual employees with disabilities. According to the APM 711-0, the University is to provide reasonable accommodation to "academic appointees who are disabled or become disabled and need assistance to perform the essential functions of their positions."<sup>4</sup> We note that the current policy on disability accommodation requires that individual academic units absorb the costs or to seek additional funds. We are concerned that placing the funding burdens at the departmental and school level creates the potential for arbitrary and discriminatory treatment. We also are concerned that it creates disincentives for untenured faculty and those from smaller units from seeking the accommodations they require under law. According to the PPSM-81: "Actions within this policy must be approved in accordance with local procedures."<sup>5</sup> Anecdotal evidence from faculty suggests that the provision of reasonable accommodations is haphazard at best. In delaying both modifications and design of campus infrastructure and the development of clear guidelines on reasonable accommodation, UCI has effectively delayed the full access and inclusion of individuals with a disability who need access to those locations to perform the essential functions of their positions.

The CFW strongly recommends that UCI, in a reflection of its commitment to inclusive excellence, go beyond the minimal guidelines of the ADA and work with the UC system to adopt principles of Universal Design in new construction and development of programs and curricula. While UCI appears to be working to comply with the ADA,

other Universities in the United States have made firm commitments to principles of Universal Design, both in the physical structures and in their approaches to instruction.

The Council encouraged the development of clear policies and clear assignment of responsibilities for ensuring compliance. Just as UCI has become a leader in environmentally friendly design through its Green Campus Initiative, we believe that it can become an exemplar in inclusive excellence around disability.

We note that the University's current shortcomings create the risk of litigation. Litigation is not only a burden for individuals and departments, but is also a drain on university resources more generally. A more thorough risk assessment will give higher priority to ADA compliance than has been given so far. As such, we would urge that a systematic approach to ADA compliance be pursued on the UCI campus.

The Council on Faculty Welfare, therefore, makes the following recommendations towards bringing the UCI campus into further compliance with the ADA:

The University will conduct an updated assessment of the buildings in the ADA Transition Plan & System for Monitoring Accessibility (Amended January 26, 1995) and provide CFW with an update on how any remaining barriers will be resolved. Please provide members of the CFW with: a) the dates that each barrier will be addressed, b) where and how the funding will be allocated to address each barrier, and c) who will be coordinating the solution for unresolved barriers. The CFW also requests biannual updates on the completion of infrastructure design, repair, and modification of the infrastructure on campus in relation to increasing accessibility.

The Council recommended that by the end of the fiscal year (2019), the University develop a plan with a timetable to assess and allocate the necessary funding to bring the campus infrastructure (including programmatic and digital infrastructure) to full compliance with the ADA. The University should annually allocate sufficient funding for regular review, design, and repair of infrastructure to ensure accessibility on campus and broad disability inclusion. The University should require Risk Services in the Division of Finance and Administration to review UCI's liabilities in regards to ADA compliance, and assess the overlap between ADA and Risk Management regarding emergency preparedness plans. The University should elevate the position of ADA Coordinator to Director of ADA Compliance and hire additional personnel including an Assistant Director of Infrastructure and an Assistant Director of Programmatic Policy and Procedure. The University should assemble a team of experts to ensure that campus construction incorporates principles of Universal Design, and ensure that new construction and old construction should make sure that the signage includes directional and accessible routes. The University should allocate funding to assess ADA compliance outside of architectural barriers, such as, but not limited to, digital access, campus signage, and emergency preparedness, including training personnel throughout the campus to locate and evacuate individuals with disabilities. ADA-related policies and procedures should be centralized to facilitate timely implementation and transparency.

The Council will continue to discuss ADA compliance and accessibility.

## **F. OIT Canvas Update**

*Meeting date: 11/13/2018*

The campus is currently transitioning from EEE to Canvas. Erik Kelly, Instructional Technology Support Supervisor and Kelsey Layos, Communications and Technology Support Specialist presented that the EEE system was first built during 1996-1999. It has not been modernized well, even with some advances and updates. Instead of rebuilding the system, it was decided that Canvas would be piloted for the campus. The decision to adopt Canvas came in 2016, after the pilot phase.

EEE, EasyWebsites, SignupSheet, and E-Legacy tools are being retired. The Quiz and Websites tools will no longer be available beginning in Winter 2019. Qualtrics is replacing the survey tool, and should provide better access to survey analytics. Qualtrics has been evaluated through HIPAA regarding privacy issues. Schools no longer need to pay for Qualtrics, and can contact OIT to transition. There are infrastructure and code updates in progress, as well as internal administrative tools. Department evaluations, RapidReturn, ClassMail Lists, and GradeBook exports are currently in development. GradeBook has been the most challenging transition, and changes will take 1-2 years to refine. Self-diagnostic evaluations can be done at any time. EEE and Canvas can both be used until all EEE systems are retired. OIT is reaching out to late-adopters to assist in the transition.

#### **G. Retiree Health Benefits**

*Meeting date: 12/11/2018*

In Summer 2017, UCOP announced that retiree health benefits funding was not sustainable and that substantive changes were needed to reduce the underfunded liability of Retiree Health Benefits. A Working Group was appointed in January 2018, and released an interim report in July 2018. The Working Group will continue to be part of a consultative body for UCOP through 2019.

Bill Parker, Professor Emeritus and Faculty Retirement Liaison, presented that there are approximately 50,000 UC retirees. UC currently provides for 70% of retiree health benefits. The benefits make up 10% of UC expenditures. UC auditors do not consider retiree health a vested benefit. There are approximately 1,600 Non-Medicare retirees (retirees over 65 who are not coordinated with Medicare), whose benefit makes up 85% of premium cost. This group's benefit will most likely be reduced to 77% over a few years.

There will be no significant increase in medical costs for 2019, but there may soon be a reduction in dental costs. Co-payments may also be increased. Out-of-state retirees purchase individual plans through the Via Benefits medical plan exchange, and UC contributes up to \$3000 in an HR account for their premium costs. There is pressure to keep healthcare costs down at the medical centers. There should be a long-term viability plan put into place to assure a more robust, substantive benefit. The Senate has continued to challenge any changes to the benefit, and should continue to express its concern. Members of the working group will continue to consult with UCOP on these issues. Retiree health benefits are more salient for staff retirees than for emeriti faculty due to their lower incomes. It is expected that employee unions will be strong allies in the defense of these benefits.

#### **H. Presidential Task Force Recommendations on Universitywide Policing**

*Meeting date: 12/11/2018*

*Memo date: 1/3/2019*

The Council reviewed the recommendations set forth by a Presidential Task Force regarding universitywide policing initiated in April 2018. The Task Force examined universitywide policing policies and processes, determined areas in need of improvement, and ensured their alignment with national best practices. Jim Meeker presented additional information.

The Council supported the recommendation of a standardized systemwide complaint process, and found it especially important for the ability to provide anonymous complaints, the various methods of making complaints and, when identified, the written acknowledgment to the complainant. The Council supported the standardization of use of force policies across the UCPDs and an emphasis on de-escalation training.

It was recommended to add the following recommendations of the Edley-Robinson Report (2012): develop a systemwide process for determining which “less lethal” weapons may be utilized by UC police officers, require each campus police department to include the list of weapons approved for use in response to demonstrations and civil disobedience in its use-of-force policies, and to make the list available to the public. The Council supported the recommendation of establishing independent Police Advisory Boards on all campuses, and would also like to see a systemwide PAB that would meet several times a year so that campuses could compare best practices. The PABs should have a complaint appeal ability, much like what has been established at UCB. Because UC as a whole is self-insured, and litigants suing on the basis of a violation of use-of-force policy sue the system and not the individual campuses, outside investigators should not be hired by individual UCPD chiefs. Such investigations should be done by the UC Office of Ethics, Compliance and Audit Services.

The Council supported the efforts of the Task Force “to determine areas in need of improvement and ensure their alignment with national best practices” as well as the recognition that the diverse university community requires creative thinking about policing that may go beyond the current standards of municipal police departments. As the Council has more time to reflect on the important issues raised by the Task Force’s recommendations, there may be additional comments in the future. The Council also fully supported the more detailed recommendations of the Senate Systemwide Public Safety Task Force that was endorsed by UCFW on June 27, 2018.

#### **I. Candidate for the UCIPD Police Chief**

*Meeting date: 1/8/2019*

The Division of Finance and Administration invited the CFW the opportunity to meet one of the UCIPD Chief candidates and ask any questions. Members asked questions about oversight, use of force, and how campus policing differs from municipal policing. There were also questions regarding anonymous complaints, and the investigation of complaints. Members submitted evaluation forms to the Division of Finance and Administration.

#### **J. SVSH Guidelines Changes**



*Meeting date: 1/8/2019*

The U.S. Department of Education released proposed Title IX rules primarily addressing how schools must respond to sexual harassment, including sexual assault. The draft rules were open for public comment until January 28, 2019 (60 calendar days from their publication in the Federal Register). The rules address a topic of great significance to the UC community, and it is critical that the Office of the President provide comments. The deadline to submit comments from Divisional Senates was December 21, 2018.

The Council discussed that these changes will affect the UC Systemwide. SVSH will be investigated in the same way as other incidents in the sense that Respondents will be given additional consideration. The evidentiary standard is changing to clear and convincing. CFW did not submit comments, but UCOP prepared a response to the Department of Education.

#### **K. NSTP Phase Two**

*Meeting date: 2/12/2019*

In Fall 2018, members expressed concern that the NSTP Phase Two should be a larger issue. The Council will be presented with additional information on the Working Group recommendations and data collection. Jean Chin, Director, Academic Personnel, and Jennifer Ramirez, Senior Compensation Analyst, Academic Personnel, presented that the NSTP began as a five year pilot in 2013, and the Task Force is currently in its fourth year. A joint Senate-Administration Workgroup met in Summer 2018 and developed a comprehensive list of recommendations. All recommendations were accepted by the Office of the President. These recommendations included data on funding sources, faculty responsibilities, participating units, administrator satisfaction, and the role of the program in recruitment and retention. There will be no changes to the program in 2019-2020. There were issues concerning buying-out of courses as opposed to course releases. There should be no buy-outs of courses.

#### **L. CPT Memo Regarding Revisions to Bylaw 336 (Privilege and Tenure: Divisional Committees – Disciplinary Cases)**

*Meeting date: 2/12/2019*

*Memo date: 2/14/2019*

Following the release of an audit report by the California State Auditor (CSA), the Board of Regents directed the Academic Senate to implement CSA recommendations by July 2019. These changes include a revision of Senate Bylaw 336. The Council will be presented with proposed revisions memo from CPT. Interim Chair Danziger, presented that the proposed revisions are in response to the new Sexual Violence and Sexual Harassment Adjudication changes, and to comply with the CA Auditor's Report.

There was concern regarding the proposed timelines, particularly that the intermediate deadlines may not be feasible to meet in all cases and questioned what may happen if one or more of the parties that are not under the Committee's control fail to comply. Members voted unanimously to endorse the CPT revisions to Bylaw 336.

#### **M. Environmental Health and Safety**

*Meeting date: 2/12/2019*

*Memo date: 2/14/2019*

Members expressed concern regarding asbestos abatement and removal on campus. The Council would like to hear information on safety procedures, monitoring, and communication to faculty regarding these issues.

Brian Pratt, Assistant Vice Chancellor and Campus Architect, DFA, Marc Gomez, Assistant Vice Chancellor, Environmental Health and Safety (EH&S), Susan Robb, Industrial Hygienist, EH&S, Dick Sun, Associate Deputy Director, EH&S, Karl Wolonsky, Associate Vice Chancellor, Environmental and Facilities Services, Renee Mihalovich, Sr. Administrative Operations Supervisor, DFA, and Steve Rosas, Omega Environmental Services, Inc., presented that the Student Worker's Union sent a request to the Chancellor, Provost, and Physical Sciences Dean expressing concern and asking for additional information regarding the construction in early February. They received a response on February 11th stating that the construction was considered safe and gave a link to the Air Quality Report.

Members expressed concern over discrepancies in handwritten reports versus the typed, final reports. Members requested unedited, raw data be available in the future. A member stated that annual reports on asbestos within buildings and asbestos abatement procedures should be in the annual report on asbestos and lead, but they have not been receiving these reports. Members considered it a conflict of interest that the company hired to monitor air quality was contracted by the administration. Concern was expressed regarding the measurements process including the types of instruments used, compliance with federal law, and how reports were recorded.

Members questioned whether there were procedures in place in the event of unsafe asbestos levels. It was stated that work would be stopped and occupants would be notified, but the process of notification was unclear. Members expressed concern at a possible delay in measuring levels, as the confirmed levels are determined off-site. Members requested additional testing be conducted in hallways and other public areas.

Air monitoring numbers are posted on the EH&S website: <http://fa.uci.edu/rowland-hall/>. Members expressed concern that there didn't seem to be UCI oversight of these particular contractors. Members stressed the importance of 24/7 monitoring of affected areas and posting of contact information and emergency procedures. It was unclear what would be the threshold (both in monitoring numbers and visually) to notify occupants of issues or emergencies. There was serious concern that "overloaded" in reports does not translate as a numerical value, and is wholly unclear regarding asbestos concentration.

Council members had further questions and concerns about the current remediation work and about policies and practices for work that may be done in the future, and submitted comments and recommendations to Cabinet.

In any situation where there is work resulting in risk of asbestos exposure, air monitoring should take place 24 hours a day and 7 days a week, not only when contracted workers are present. Campus personnel and students use campus buildings outside the times when construction workers are active and risks to their health could arise at any time.

Moreover, both air quality monitoring and surface (e.g. desk, floor) testing should take place in all building areas impacted by the work, not just in the immediate working areas.

The UCI campus should strive for a higher-than-industry standard with regard to acceptable levels measured during monitoring to help ensure safety. Council members were left with the understanding that industry standards apply to the safety of contracted workers but not necessarily to regular users of the buildings undergoing work. Air monitoring reports should be made available to all concerned on a daily basis or as soon as data are available. These reports and data should be easily accessible to the public. Contact information for individuals with project oversight should be publicly posted near workspaces so that building occupants and users may raise concerns or complaints at any time.

Procedures for response in the case of an “above standard” or “overloaded” air quality reading should be clearly posted and should include public notification of appropriate response procedures in the case of suspected hazards, notice listing the primary contact person who is responsible for implementing procedures and respond to issues, published procedures for emergency evacuation in the case of hazardous conditions, as well as clear guidelines for when such an evacuation is appropriate, and plans should be created for informing and/or evacuating all building occupants when there are highly suspected or confirmed elevated levels of asbestos or other hazardous materials from any unexpected accidents. Either the independent monitor hired to oversee worker safety in line with Occupational Health and Safety Administration standards or a separate monitor should be contracted to monitor the health and safety of others who use the worksites. This may involve measuring air quality and surface particulates in areas of the building that are outside the immediate work areas. Every future university contract involving abatement of hazardous materials should include all the above procedures.

#### **N. Systemwide Senate Review of Sexual Violence and Sexual Harassment (SVSH) Investigation and Adjudication Framework**

*Meeting date: 2/12/2019*

*Memo date: 2/20/2019*

The Systemwide Title IX Office revised the frameworks to: 1) require the Chancellor or Chancellor’s designee to consult with their Title IX Officer on discipline for faculty, staff, and nonfaculty academic personnel found in violation of the SVSH Policy, and 2) require the Chancellor to issue a final decision about discipline for Senate faculty within 14 days of receiving a recommendation from the Committee on Privilege and Tenure. These changes were mandated by the California State Auditor.

Members expressed concern that any “responsible employee” (which includes faculty members) is required to notify their Title IX offices of any complaints. It was explained that faculty members may lack appropriate training to manage these types of complaints, and may be uncomfortable doing so. “Mandatory reporting” is in the current SVSH training required by faculty. Ultimately, members found no issues with the revisions.

#### **O. UC Irvine ADA Coordinator**

*Meeting date: 4/9/2019*

The new ADA Coordinator, located in OEOD, was introduced and gave brief updates regarding ADA Compliance and Accessibility at UCI. Andrew Berk, UC Irvine ADA Coordinator, presented that the new ADA Coordinator's goal is to create a culture of disability rights and integration, and to make UCI the model of ADA compliance for the UC system. Another focus is to build awareness through partnerships and education. Signage is extremely important to provide pathways of travel for those with disabilities. Architectural access, or access to enter and exit buildings, should be improved.

Accessibility of webpages and electronic materials will be examined for areas of improvement. Recommendations for emergency planning will be implemented. Recruitment of students, faculty, and staff with disabilities will take place to assist in planning and implementation. Universal design is the goal for the ADA compliance and accessibility on campus. Reasonable accommodations in Housing has been an initial goal.

**P. UCI Campus Assault Resources and Education (CARE)**

*Meeting date: 4/9/2019*

*Memo date: 5/23/2019*

During the November CFW meeting a member inquired about populations on campus that utilize CARE services, and if CARE had sufficient resources and funding to accommodate these populations. Eli Pascal, Assistant Director of CARE, presented that CARE has insufficient funding and resources for the population it is currently serving. CARE receives student fees for its program, but is serving faculty, staff, and student affiliates (partners, etc.) now due to need. The program is impacted by particular instances that impact the whole campus (emergencies, trauma, etc.), but there is no contingency plan for additional resources during these instances. UCOP mandates a response within 24 hours. The office provides a response from 8am-5pm Monday-Friday, and partners with a local organization during off-hours for responses. The program should have some form of guaranteed funding, but UCI has not identified permanent funding at this time. The new Title IX changes have impacted the program in terms of policies, procedures, and victim and witness responses, and will continue to do so.

The Council recommended the hire of two to three additional permanent full time Advocates (one with a primary focus on faculty and staff). An additional prevention educator to focus on staff/faculty and graduate student engagement was also recommended. Program dollars to sustain critical programs (e.g. the VIP program that will cost \$30,000+ next year due to increasing requirements from Greek Life to participate, Green Dot programming at \$5-10,000 per year, etc.) and campus communications. Professional development funding to maintain licenses and confidentiality for Advocates and clinical staff is also needed.

**Q. UCI Guidance Concerning Disruption of University Activities**

*Meeting date: 4/9/2019*

*Memo date: 5/8/2019*

The campus published Guidance Concerning Disruption of University Activities. This policy was implemented on an interim basis while the campus comment period was underway. This guidance is designed to prevent disruption of University activities,

protect lawful access to campus programs and facilities, avoid unsafe behavior, and prevent physical harm to persons or property. Its application does not vary according to the cause or content of a particular protest, speech, or other form of expression.

The Council and the Academic Freedom Subcommittee (Fabio Macciardi, Isaac Scherson, Phang-Lang Chen, Stephan Hammel, Drew Bailey) expressed concern regarding whether the rules apply to students (and staff?) but not to faculty, and that point would need clarification. Definitions of “peaceful protest” and what would “silence anyone” were recommended. The idea of “safe spaces” should be explained in relation to this policy. There should be a robust protection of free speech, but members questioned what would be considered “bad conduct” on the part of a student.

There was a passage of text that an organizer of a campus event might read aloud to increase the likelihood of a productive exchange (or at least one that is not disrupted). However, it is not clear to what the stakes would be. The text read "The announcement should be consistent, in substance and delivery, regardless of the identity of the speaker(s) or the protestor(s) or of the content or the viewpoints to be expressed at the event." Members thought this seemed reasonable, but were unsure if the campus is able to require such an announcement. If not, perhaps the text should label this as “highly encouraged.”

The specification that conduct that “unduly” interferes will constitute disruption seems important but might need fuller definition. Members questioned whether the criteria are sufficiently clear regarding when students, staff, and faculty need to alert campus police, campus administration, or other campus officials in order to act “reasonably” in response to a planned speaker or event. Further clarification of what is meant by “University Activity” is recommended. Members also questioned if this policy would only apply to sanctioned or registered events on campus.

## **R. Review of Free Speech Policy**

*Meeting date: 5/14/2019*

*Memo date: 5/22/2019*

The campus published a new free speech policy that is being implemented on an interim basis. The policy is designed to provide a context in which to understand and ensure free speech at UCI and to form the basis for applying other speech-related policies.

The Council agreed with the general direction of the draft policy. It seemed like a promising step forward in the challenging process of balancing the University’s mission and the values of its faculty with the interests of civil conduct and public safety. Concern was expressed regarding how broadly construed the concept of “University community” should be. Does it, for example, include University Hills? The North campus? University Town Center? Would it be assumed that it is bound by the physical borders of the University campus? If it does include University Hills, this should be clarified. University Hills is a complex development that includes both private housing and semi-public spaces. It is recommended that consultation be extended to parties already explicitly constituted to speak on behalf of residents, including the Irvine Campus Housing Authority (ICHA), and the elected Homeowner Representative Board.

Members questioned whether faculty offices are considered “administrative offices” and whether they would be subject to the articles of this policy governing such spaces. Some of the language in the document suggests that they are included among “administrative offices.” It was suggested that it should be clearly stated that faculty should have rights to non-disruptive free speech in offices, hallways and common spaces. The statement “do not restrict movement on walkways or roadways” needs clarification with regards to ring road (an unreserved space) open to expressive activity. Members questioned whether there was criteria regarding the extent to which expressive activity can restrict movement on ring road.

**S. Proposed New Academic Personnel Manual (APM), Section 011, Academic Freedom, Protection of Professional Standards, and Responsibilities of Non-Faculty Academic Appointees (APM- 011)**

*Meeting date: 5/14/2019*

*Memo date: 5/22/2019*

The proposed new policy is intended to address the academic privileges, rights, obligations, and responsibilities of non-faculty academic appointees. Council members had no concerns regarding the policy and voted unanimously in support of the proposal.

**T. Systemwide Review of Proposed Interim Policy on Responding to Immigration Enforcement Involving Patients at UC Health Facilities**

*Meeting date: 5/14/2019*

*Memo date: 5/15/2019*

UC Senate Chair May has circulated a proposed interim policy for limited review on responding to immigration enforcement involving patients at UC Health facilities. Members voted unanimously on various concerns and recommendations.

“Administrative warrant” or “ICE warrant” should be defined and it should be clarified how these are different from a judicial warrant. (E.g., “Administrative warrants” allow agency officials to gather information to enforce statutes and administrative regulations. Administrative warrants are distinct from criminal warrants. They are generally non-urgent requests to inspect records and premises or to detain individual. ICE warrants are issued for civil violations of immigration law, not criminal charges. They are a type of administrative warrant. An “ICE warrant” is not a real warrant in the sense that it is not reviewed by a judge or any neutral party to determine if it is based on probable cause.

Examples of a health facility administrator would be useful. (E.g., “A Health Facility Administrator is generally not a mid-level staff supervisor but rather an individual with policy oversight of the health facility.”) The statement “Health facilities will not respond to information requests by telephone because of the security and confidentiality risks involved” should be plainly stated. The Council also proposed that the statement “Advise the officer that before proceeding with his or her request, health facility personnel must first notify and receive direction from University Counsel or, if University Counsel is unavailable, from the designated health facility administrator” should be included.

There should be a subsection that states “Health personnel should ask what type of warrant is being presented.” Administrative warrants are non-urgent and immediate

compliance is not required. Inform the officer that the health facility cannot respond to the warrant until after it has been reviewed by a designated administrator and University Counsel.” It was recommended that the following be stated: “While immigration enforcement at health facilities is limited by U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection “sensitive-locations” policies, immigration agents may enter a public area of a health facility without a warrant or the facility’s consent and may question any adult person present with that person’s consent. (Note: access to private areas of the facility is restricted unless agents have a judicial warrant.)” “There may be an exception in exigent circumstances. Exigent circumstances are rare and would typically involve situations such as immediate destruction of evidence or flight of an individual suspected of serious criminal activity” should be added to the document.

The Council also posed the following questions: 1) Regarding posting “information:” which languages and which accessible formats will the information guides be posted? 2) What distinguishes a “public area” of a health facility from “sensitive locations”? Which locations require consent? 3) How can the policy define consent? In what form does consent need to be given to the defined “health facility administrator”?

The Council recommended that before instituting a final policy, UC Counsel solicit input from the numerous UC experts on immigration issues, and submitted a list of potential contacts.

#### **U. Request for Proposal (RFP) for Significant Changes in Retiree Health Insurance Plans Options**

*Meeting date: 5/14/2019*

*Memo date: 5/15/2019*

At the joint April 2019 Council of UC Retiree Associations (CUCRA) and Council of UC Emeriti Association (CUCSEA) meetings, Michael Baptista, Executive Director of Benefits Programs and Strategy for the UC Office of the President (UCOP), presented a briefing regarding a Medicare Advantage PPO Request For Proposals (RFP) that had been sent out by UCOP. He presented the information as “pre-decisional” and “confidential/not subject to disclosure.” His presentation outlined a new option for retiree health benefits and the probable elimination of several existing options. Despite the lack of shared information or important details about this proposal, Baptista indicated a decision by UCOP is scheduled for May/June 2019 with detailed plan information available for fall Open Enrollment and that the new plan would be implemented for January 2020.

The Council voted unanimously in support of a deliberate and appropriate review of any major changes in current options, including consultation with faculty and other stakeholders, as well as more transparency regarding the details. The available materials are characterized by insufficient data regarding cost implications for retirees, cost savings for UC, and the potential disruptions and issues in transitions from current plans. The implementation timeline of January 2020 is insufficient to provide careful analysis and review and a smooth transition to a new system. It was requested that appropriate committee and stakeholder reviews of these proposals occur without haste, even if that means delaying any possible implementation until January 2021.

## **V. Office of Inclusive Excellence**

*Meeting date: 6/11/2019*

The Council heard information on diversifying faculty, supporting professional trajectories, and positive campus climates at UCI.

Marguerite Bonous-Hammarth, Executive Director, Office of Inclusive Excellence, and Roxane Silver, Associate Director of ADVANCE, Office of Inclusive Excellence and Professor of Psychological Science, presented that the goal for Inclusive Excellence Action Planning in 2018-19 is to become a national leader of inclusive excellence in higher education by 2023, to provide a learning environment where all expect equality, support diversity, practice inclusion, and honor free speech. The OIE serves undergraduates, graduate students, faculty, and staff populations on campus. The OIE is focused on making diversity a larger part of recruitment, merit, and promotion for faculty. There has been an issue with retaining diverse faculty.

Members discussed the possible differences in the charge of “diversity” in CFW versus the new Council on Equity and Inclusion (CEI). It was stated that CFW would continue to focus on diversity for faculty, and would discuss whether to have a representative to UCAADE in the future, or if the CEI could have the sole representative.

Members stated that the data presented in and by the Academic Planning Group (APG) would be useful to CFW. Members questioned why diversity should be addressed in a promotion case, and what may be specific examples of contributions to diversity. It was suggested that Equity Advisors review salary equity. There are currently 45 DECADE mentors, which work with URM students to foster inclusive environments and promote diversity within the student population.

Next steps for the OIE include stakeholder discussions with the Senate, administrators, students, and staff group; additional forums on agreed key performance indicators, and creating a permanent body for monitoring and tracking outcomes. An ultimate goal for the OIE is to foster an inclusive culture, educate (mandatory diversity training for all), rewrite UCI pillars, reinforce civic engagement commitments, and evaluate retention and incidents.

## **W. Transportation and Distribution Services**

*Meeting date: 6/11/2019*

The Council was provided with an annual update on transportation initiatives. Ron Fleming, Executive Director, and Julianna Bayley, Strategic Communications Manager, presented that a new parking structure will be built in 2021 or 2020. The Anteater Parking Structure will undergo renovations. The current construction is not conducive to pedestrians and there have been accidents with cyclists and pedestrians. Pedestrian improvements will be made along Bison Avenue. There is a possibility of a parking structure near the College of Health Sciences on Bison. A member expressed concern regarding skateboards on campus, with the motorized skateboards being of particular concern.



ADA compliance with signage is underway. Ron will follow up with the ADA Coordinator to coordinate appropriate signage. AR permits may park in Preferred spaces, but not vice versa. There are “pump to plug” incentives with local car dealers for those buying electric vehicles. There are ADA compliant charging stations, but they are not located on the campus core. A member explained that many disabled drivers have electric vehicles due to the difficulty of using gas pumps, and that ADA compliant charging stations should be a priority. A new system to recognize license plates, called “Nu Park,” will begin in December 2019. Members expressed concern that the prices of parking for staff seemed unreasonable considering the average salary of staff members.

## V. SUBCOMMITTEE REPORTS

### A. Subcommittee on Emeriti Affairs

CFW’s standing Subcommittee on Emeriti Affairs acts as a liaison to the UCI Emeriti Association (UCIEA), keeping the Association informed of current campus issues and providing advice to CFW on issues from an emeriti perspective. Emeriti-related issues during 2018-19 included:

- Retiree Health Benefits
- RFP for Significant Changes in Retiree Health Insurance Plans Options

#### Subcommittee members:

James Danziger, President of UCIEA  
James Meeker  
Kenneth Chew  
Eric Stanbridge

### B. Subcommittee on Academic Freedom

CFW’s Subcommittee on Academic Freedom advised CFW on academic freedom issues mentioned previously in this report. Fabio Macciardi represented the Irvine Division at the meetings of University Committee on Academic Freedom (UCAF). Issues for 2018-19 included:

- Politicization of science research funding
- Review of Free Speech Policy

#### Subcommittee members:

Fabio Macciardi (UCI Rep to UCAF)  
Isaac Scherson  
Phang-Lang Chen  
Stephen Hammel  
Drew Bailey

### C. Subcommittee on Affirmative Action, Diversity, and Equity

CFW’s Subcommittee on Affirmative Action and Diversity advised CFW on affirmative action and diversity issues mentioned previously in this report. Matthew Foreman represented the Irvine Division at the quarterly meetings of the University Committee on Affirmative Action and Diversity (UCAADE). Issues for 2018-19 included:

- SB 540

- ADA Compliance and Accessibility
- UC Irvine ADA Coordinator
- APM 011
- Systemwide Review of Proposed Interim Policy on Responding to Immigration Enforcement Involving Patients at UC Health Facilities
- Office of Inclusive Excellence

Subcommittee members:

Rachel O'Toole

Jun Wu

Mei Zhan

Kaaryn Gustafson

**D. Subcommittee on Faculty Welfare**

CFW's Subcommittee on Faculty Welfare advised members on faculty welfare issues mentioned previously in this report. Stephen Tucker represented the Irvine Division at the monthly meetings of the University Committee on Faculty Welfare (UCFW). Issues for 2018-19 included:

- Peer Review Committee – Background and Charge
- Systemwide Senate Review of Proposed Presidential Policy on Sexual Violence and Sexual Harassment (SVSH)
- University Hills Bike Lanes
- ADA Compliance and Accessibility
- OIT Canvas Update
- Presidential Task Force Recommendations on Universitywide Policing
- Candidate for UCIPD Police Chief
- SVSH Guidelines Changes
- NSTP Phase Two
- CPT Memo Regarding Bylaw 336 Revisions
- Environmental Health and Safety
- Systemwide Senate Review of Sexual Violence and Sexual Harassment (SVSH) Investigation and Adjudication Framework
- UC Irvine ADA Coordinator
- UCI Campus Assault Resources and Education (CARE)
- UCI Guidance Concerning Disruption of University Activities
- Transportation and Distribution Services

Subcommittee members:

Stephen Tucker, Chair and UCI Representative to UCFW

Lorenzo Valdevit

Loraine Lau-Gesk

Jorge Busciglio

Matthew Foreman (UCI Representative to UCAADE)

**VI. NEW AND/OR CONTINUING BUSINESS FOR 2019-2020**

- Academic Freedom
- ADA Compliance on UCI Campus and Medical Facilities

- SVSH Investigation and Adjudication Framework
- University Club
- Health Affairs and Possible Specialty Hospital
- Retirement Issues for Emeriti
- Emeriti Engagement
- Division of Finance and Administration
- Healthcare
- UCIPD-UCI Community Relations and the Public Safety Advisory Board
- University Hills/ICHA
- Transportation
- Childcare
- Email Confidentiality

## **VII. INVITED GUESTS**

- Diane O’Dowd, Vice Provost for Academic Personnel (10/9/2018)
- Victor Van Zandt, President and CEO of ICHA (11/13/2018)
- Erik Kelly, Instructional Technology Support Supervisor (11/13/2018)
- Kelsey Layos, Communications and Technology Support Specialist (11/13/2018)
- Bill Parker, Professor Emeritus and Faculty Retirement Liaison (12/11/2018)
- Jean Chin, Director, Academic Personnel (2/12/2019)
- Jennifer Ramirez, Senior Compensation Analyst, Academic Personnel (2/12/2019)
- Brian Pratt, Assistant Vice Chancellor and Campus Architect, DFA (2/12/2019)
- Marc Gomez, Assistant Vice Chancellor, Environmental Health and Safety (2/12/2019)
- Karl Wolonsky, Associate Vice Chancellor, Environmental and Facilities Services (2/12/2019)
- Marguerite Bonous-Hammarth, Executive Director, OIE (6/11/2019)
- Roxane Silver, Associate Director of ADVANCE, OIE and Professor, Psychological Science (6/11/2019)
- Ron Fleming, Executive Director Transportation and Distribution Services (6/11/2019)
- Julianna Bayley, Strategic Communications Manager, Transportation and Distribution Services (6/11/2019)

## **VIII. COUNCIL MEMBERSHIP**

### Faculty Members:

Stephen Tucker, Arts, Chair  
Kevork Abazajian, Physical Sciences  
Drew Bailey, Education  
Jorge Busciglio, Biological Sciences  
Phang-Lang Chen, Medicine  
Kenneth Chew, Social Ecology  
Matthew Foreman, Physical Sciences  
Kaaryn Gustafson, Law  
Stephan Hammel, Arts  
Loraine Lau-Gesk, Business  
Fabio Macciardi, Medicine  
James Meeker, Social Ecology

Rachel O'Toole, Humanities  
Isaac Scherson, ICS  
Eric Stanbridge, Medicine  
Lorenzo Valdevit, Engineering  
Jun Wu, Health Sciences  
Mei Zhan, Social Sciences

Emeritus Members (voting)

Kenneth Chew, Social Ecology  
James Meeker, Social Ecology  
Eric Stanbridge, Medicine

Consultants (non-voting)

Gwen Kuhns Black, Office of Equal Opportunity and Diversity  
Jeri Frederick, Human Resources  
Marianne Beckett, Academic Personnel

Representatives (non-voting)

Joseph Colarian, ASUCI  
Jared Celnicker, AGS  
Rebecca Walden, LAUC-I

Ex Officio

James Danziger, UCIEA

Council Analyst

Julie Kennedy