

March 13, 2019

Robert May
Chair, Academic Council

RE: Systemwide Senate Review: Proposed Revisions to Senate Bylaw 336 and Proposed Revisions to SVSH Academic Frameworks

Dear Chair May:

The Executive Board of the UCLA Academic Senate discussed the proposed revisions to Senate Bylaw 336 and the proposed revisions to SVSH Academic Frameworks at its meeting on March 7, 2019. The Executive Board solicited comments from standing committees of the Senate, as well as the Faculty Executive Committees, to maximize faculty feedback; the individual responses received are attached.

In this response, we offer our insights into both the proposed revisions to Bylaw 336 and to the proposed revisions to SVSH investigation and adjudication framework for Senate and non-Senate faculty.

Proposed Revisions to Senate Bylaw 336

The UCLA Division of the Academic Senate welcomes the opportunity to comment on the suggested revisions to Senate Bylaw 336. These revisions, as your office has pointed out, respond to the recommendations made in the July 2018 California State Audit report on the additional steps that UCOP must take to address longstanding issues with the university's response to sexual harassment complaints. Before we go any further, we must say that we were surprised to learn that in your presentation to the UC Regents on September 26, 2018, you apparently confirmed that the Academic Senate accepted the CSA's recommendation that that the timeframe for disciplinary hearings must begin within sixty calendar days once the Chancellor files a charge and that the hearing committee must issue its recommendation to the Chancellor within thirty calendar days once the hearing has been concluded. We assume that this is an error, since any Senate agreement to these recommendations would of course be taken to a discussion and vote through our systemwide Academic Assembly. We would very much appreciate some clarification on what you said on this matter at the September 26, 2018 UC Regents meetings.

We have identified some serious drawbacks to the revisions that appear in the final redlined document dated December 11, 2018.

In 336.C.2, we are told that "the accused shall 14 calendar days from the receipt of the disciplinary charges in which to file an answer in writing with the Committee on Privilege and Tenure." We know from experience that this timeline is simply too short.

336.D.1 involves the deletion of the opportunity for disciplinary charges also to "be resolved through mediation in cases where mediation is acceptable to the administration and the accused." The cover letter from December 11, 2018 indicates that this deletion has been made because "the deadlines

[i.e. the recommended deadlines] under which P&T will be required to operate” indicate that “it will no longer be possible for P&T to suggest that a case be referred to mediation after charges have been filed.” This suggested revision is regrettable because mediation is often the most productive path toward early resolution in many different disciplinary cases. Cf. APM-015 B.4: “There should be provision for early resolution of allegations of faculty misconduct before formal disciplinary proceedings are instituted. Procedures should be developed for mediation of cases where mediation is viewed as acceptable by the Chancellor and the faculty member accused of misconduct.”

This latter point highlights the problems involved in revising Bylaw 336 solely with SVSH cases in mind. Disciplinary cases are of course not restricted to SVSH.

Further, we noted on the SVSH policy that the administration acknowledged the CSA recommendations as recommendations and not as commands in extending their own time limits. We believe the Senate should take the same approach, especially since the OCR’s agreement (which is binding) directs the University to create timelines that are not only prompt but also reasonable. For that reason, the references to “calendar days” in the proposed revisions to Bylaw 336 should be changed to “business days,” since it will be very difficult for P&T committees to conduct their business in such a short space of time.

Proposed Revisions to SVSH Academic Frameworks

Section IV.D needs attention. Several high-profile court cases have made it clear that it is not desirable for a Title IX officer who had conducted an investigation and made a finding should not be involved in consultations about the best methods for resolving the case, especially when resolution entails sanctions or discipline. There needs to be a separation of interests between the investigator’s role in the Title IX office and the body that that recommends corrective or disciplinary measures. The peer review committee should have the authority to make the recommendations in consultation with the Academic Personnel Office.

Sincerely,



Joseph Bristow
Chair, UCLA Academic Senate, 2018-2019

cc: Hilary Baxter, Executive Director, Systemwide Academic Senate
Sandra Graham, Immediate Past Chair, UCLA Academic Senate
Michael Meranze, Vice Chair/Chair-Elect, UCLA Academic Senate
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