REPORT OF THE AFTER THE MORENO REPORT TASK FORCE

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Executive Board of the UCLA Academic Senate

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EXECUTIVE SUMMARY:

As charged, the After the Moreno Report Task Force focused its attention on two primary issues: the adequacy of Senate procedures for dealing with acts of bias or discrimination particularly against faculty of color and identifying ways in which the Senate could contribute to improving the climate for diversity at UCLA.

A definitive answer to the question of the adequacy of Senate advisory and judicial procedures was difficult to reach because those procedures are so firmly embedded within a complex system of campus strategies for dealing with discriminatory acts and more general violations of the faculty code of conduct. It was immediately apparent, however, that Senate procedures were unclear and often misunderstood by the campus community. To remedy that situation, the task force recommends that the Senate immediately improve its documentation of those procedures and provides better training in those procedures for the Grievance Advisory Committee (GAC), the Committee on Charges (Charges), and the Committee on Privilege & Tenure (P&T). It also recommends that the Senate office find a way to make these procedures more readily available not only to faculty but to all of the campus community. Finally, it recommends that the Senate office ensure that cases are processed in the timely manner and adjudicated according to the guidelines established in the Senate’s bylaws.

The task force is, at this time, unable to reach an informed recommendation on whether Charges remains a necessary element of the Senate’s judicial procedures. Created decades ago to ensure that any charges against a faculty met minimal standards for probable cause and simultaneously to reduce the workload of P&T, Charges is unique among the other UC campuses. As formal investigative processes have developed for charges of research misconduct and sexual harassment and will soon be put into place for acts of discrimination, the role of Charges has become more complicated. Barring resolution of an incident during the investigation, the results of an investigation are forwarded to Charges to determine whether there is probable cause for a formal charge to be filed. The committee’s decision is forwarded to the Vice Chancellor for Academic Personnel who can either concur or disagree. Responsibility for investigating other charges of violations of the Faculty Code of Conduct lies with the Charges Committee, raising questions about whether it has adequate resources for those investigations and how to ensure fairness across two different investigative processes. The resolution to this question can only come through conversations between the Senate and the Administration as it puts the office of the new Vice Chancellor for Diversity, Equity, and Inclusion into place and the task force recommends that those conversations should begin as soon as possible.

Regarding the Senate’s contributions to improving the climate for diversity and inclusion at UCLA, the task force makes specific recommendations regarding personnel processes to mitigate the effects of discrimination in the past and for identifying today’s climate sore spots. It seconds the suggestions made by various Senate committees for actions they could take and offers ideas for other committees. It advocates that leadership and diversity training made available to department chairs and other administrative leaders also be made available to Senate committee chairs. More detailed presentations of these recommendations follow.
PROLOGUE:

Like the university of which it is an integral part, the UCLA Academic Senate believes that a rich research and learning environment thrives on diversity.¹ Its student body, reflecting the diverse population of California and the world, makes the learning environment at UCLA engaging, rigorous, and innovative. UCLA’s faculty, with its wide array of research interests, ideas, interpretations, and solutions, benefits daily from exchanges with others who bring their diverse perspectives into conversations that help to generate path-breaking new research. Arguably, UCLA has become the world class institution it is because of its diversity.

Creating and maintaining such a diverse environment does not come easily. The Senate’s Committee on Undergraduate Admissions and Relations with Schools (CUARS) has, for example, worked diligently with the Administration to ensure that our incoming students, chosen from one of the most competitive pools of applicants in the U.S., bring an impressive set of varied achievements with them to campus. Our Committee on Academic Freedom has consistently maintained our faculty’s rights to conduct their research, explore a wide range of (sometimes controversial) ideas in their classrooms, and to speak their opinions openly. The Committee on Committees works diligently to recruit diverse faculty to all Senate committees and other committee appointments that come to them for consultation. Our Graduate Council, in cooperation with Graduate Division, has formulated policies and principles to attract and educate the next generation of scholars and professionals who, drawing from their varied experiences and perspectives, will reshape the academy and their professions in the future.

When Chancellor Block released the Independent Investigative Report on Acts of Bias and Discrimination Involving Faculty at the University of California, Los Angeles (hereafter the Moreno Report) to the campus in October 2013, it became clear that the UCLA Academic Senate has not done all it might to foster an environment in which our community can benefit fully from its rich mix of individuals and ideas and to protect the rights of others, particularly the rights of faculty and students of color.² In particular, that report highlighted the ways in which Senate judicial procedures and practices, designed to protect the rights of the faculty and to ensure that faculty protect the rights of others, too often failed to do so because of confusing and opaque processes, seeming inconsistencies in determining whether bias or discrimination had occurred, unnecessary delays in hearings, and the potential legal expenses involved in participating in a hearing. Concerns about the Senate’s seeming indifference to discrimination and bias were not limited to the Grievance Advisory Committee, Charges, and Privilege and Tenure. The report also expressed concerns about the Senate’s perceived indifference to bias and discrimination when it surfaced elsewhere, such as in program reviews or in personnel actions before the Council on Academic Personnel.

In response to the findings of the Moreno Report, the Senate’s Executive Board asked all Senate Committees and Faculty Executive Committees to consider the issues raised therein and report back to the Executive Board with recommendations each committee had for the UCLA Senate as a body and ideas each individual committee had for contributing to an improved climate for diversity at UCLA. Using the responses as a guide to issues raised from within the Senate and

¹ [http://regents.universityofcalifornia.edu/governance/policies/4400.html](http://regents.universityofcalifornia.edu/governance/policies/4400.html)
the immediate issue of the Senate’s judicial processes as highlighted in the Moreno report, a task force was formed of current and past Senate committee chairs to consider those issues and to make recommendations to the Senate. The charge given to the task force was as follows:

The task force’s charge is simple to state but extraordinarily challenging in its scope: How should the UCLA Academic Senate address both the specific recommendations of the Moreno Report as well as the underlying issues articulated within the report? More specifically, we hope that the task force will make recommendations in two particular areas:

1) Are our current Senate procedures adequate for handling complaints of discriminatory behavior or bias involving faculty?

2) Are there efforts and activities that the Senate should be making to address the underlying causes that lead to incidents like those described in the Moreno Report or to improve the campus climate for diversity?

Before turning to the immediate elements of its charge, the After Moreno Task Force began by articulating a series of principles that would shape its deliberations.

GENERAL PRINCIPLES:

The first of these was to use the provision of justice to members of the Academic Senate and the broader institution as the guiding principles for our recommendations for both preventative and remedial actions with respect to preventing discrimination based on any protected category for any member of the institutional community. Our decisions considered all aspects of justice, including ensuring that the outcomes of all decisions and procedures are equitable and meet the standards and norms of the applicable codes of conduct, policies and laws; that the processes that lead to those outcomes adhere to the criteria of consistency, lack of bias, correctability, representation, accuracy, ethicality and voice; and that the participants in the process experience timely, transparent, respectful and sensitive treatment throughout.

A second principle was not to lose its primary focus on the racial and ethnic bias that was the subject of the Moreno Report but to also ask if other faculty who also experienced discrimination and bias might also be ill-served by Senate procedures and practices. There was an explicit assumption among task force members that if the Senate needed to rethink its policies for some, to ensure fairness it needed to rethink them for all.

The need for transparency was the third of these principles. The lack of transparency in the filing and resolution of charges of bias or discrimination was specifically cited in the Moreno Report and echoed in the 2013 campus climate survey released in March 2014. Its absence contributes heavily to the sense of arbitrariness and unfairness that echo throughout those reports. UCLA needs to cultivate a culture of transparency in all of its personnel and disciplinary processes.

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3 The survey results are available at https://diversity.ucla.edu/uc-campus-climate-survey-ucla.
The task force was also guided by the University of California Senate/Administrative work

The UCLA task force found its questions, analysis, and range of recommendations generally compelling, particularly those addressing long-term strategies. Many of the recommendations that follow represent actions that can be implemented in the near future. Dealing with racial discrimination, biases against groups and individuals, and behaviors of all kinds that create a hostile climate requires ongoing efforts that will involve joint efforts on the part of the Senate, the Administration, and individuals. We agree with that assessment and see the recommendations presented here as initial steps in what will need to be an ongoing effort. 4

COMMITTEE CHARGE 1: ARE OUR CURRENT SENATE PROCEDURES ADEQUATE FOR HANDLING COMPLAINTS OF DISCRIMINATORY BEHAVIOR OR BIAS INVOLVING FACULTY?

On page 20, the authors of the Moreno report clearly identified what they saw as the ineffectiveness of the Senate procedures designed to ensure the rights and privileges of the faculty.

The formal Academic Senate processes do not offer a viable solution to these issues. Few complaints and grievances regarding incidents of perceived discrimination reach the Charges or Privilege and Tenure Committees. The process for bringing a formal complaint or grievance can be bewildering to faculty members, and can take months to conclude.

Some faculty members who considered instituting proceedings told us that they had concluded they could not afford legal fees for counsel. Other university stakeholders said that they considered the Academic Senate processes to be a last resort for individuals who had nothing to lose, such as a professor who has been denied tenure. In short, the prospect of engaging in the quasi-litigation that characterizes a Privilege and Tenure Committee proceeding deters many faculty members from using that process.

The task force, in its meetings and through research outside those meetings, concluded that the authors of the Moreno Report and those they interviewed had, quite correctly, identified serious flaws in the Senate procedures: the process(es) for bringing a formal complaint or grievance ARE bewildering and CAN take months to conclude. Before turning to ways to improve those deficiencies, however, it is important to clarify other elements of the quote above.

Other university stakeholders said that they considered the Academic Senate processes to be a last resort for individuals who had nothing to lose…

Although the UCLA Senate does not articulate this as clearly as it should, the Academic Senate processes assigned to the Committees on Charges and Privilege and Tenure were designed to be used AFTER other attempts at resolution have not been successful.5 Divisional Privilege and Tenure Committees have jurisdiction to deal with three distinct categories of cases:

5 334. Privilege and Tenure: Divisional Committees – Jurisdiction (En 23 May 01)  
   http://senate.universityofcalifornia.edu/manual/blpart3.html [See Legislative Rulings 3.73, 12.80, 3.93.A-B, 4.94]
grievance cases (SBL335), where a member of the Senate claims injury through the violation of his/her rights and privileges; disciplinary cases (SBL 336), where a member of the Senate is accused of having violated the Faculty Code of Conduct; and early termination cases (SBL 337), where a Senate or non-Senate faculty member challenges whether there is good cause for his/her early termination. Before a case arrives at either of these two committees to resolve any of these situations, it is expected that efforts will have been made to resolve them informally through Department Chairs, Deans, Student Affairs, the Ombud’s Office, the Title IX officer, or, in the near future, the discrimination officer.

This array of paths is indeed bewildering and the Senate has not made the paths to the Senate committee clear. Both the Senate website and the Grievance Advisory Committee, the Senate committee charged with providing advice on procedures for negotiating that multitude of options, need to be clearer in helping Senate members and non-Senate members whose complaints involve a Senate member find their way through that labyrinth of options.

**Recommendations to the Senate regarding its procedures in handling complaints of discrimination and bias:**

Although certain questions will necessarily remain unresolved until the new diversity investigative officers and the Vice Chancellor for Diversity, Equity and Inclusion are in place, the Senate should take steps immediately to begin to make its processes more transparent and easier to understand. These steps should include, *at a minimum*, the following:

1. The practices and policies of the Grievance Advisory Committee, the Charges Committee, and the Committee on Privilege and Tenure need to be clarified for committee members as well as for the UCLA community at large. An updated handbook needs to be created for committee members on each committee and each committee should begin its year of service with a workshop that prepares them for the serious tasks that lay before them as a committee and as individuals.

2. Each of these committees should have a regular meeting scheduled each quarter in addition to convening to consider cases or to hold a hearing. These meetings would facilitate training, reflection, and scheduling hearings as they become necessary.

3. Clearer and more informative documentation needs to be made readily available to the campus on Senate procedures for grievances and charges. Paths toward resolution short of formal charges should also be identified as well as an explanation of the investigative processes involved for a case to proceed. Ideally, creating this documentation for the campus community should be done in conjunction with the Administration.

4. As new administrative procedures for investigating grievances on campus are developed, the Senate must clarify the investigative role of the Charges committee and its role in Senate disciplinary procedures. (See Appendix D for issues learned by this task force.)

5. The Senate must identify ways to let the campus community know that there are penalties for acts of discrimination, sexual harassment, or other serious violations of the faculty code of conduct even while not violating legal agreements or violating the privacy of individual faculty. This might be accomplished by a summary of punishments over the past five years that appears on the opening page of the state-
mandated online sexual harassment training or as part of the guidelines prepared for those who are investigating Senate processes for filing charges.

More specific recommendations for these committees appear in the next section of this report. The appendices present in greater depth the issues that will need to be considered in any major organization of the judicial committee structure.

**COMMITTEE CHARGE 2: Are there efforts and activities that the Senate should be making to address the underlying causes that lead to incidents like those described in the Moreno Report or to improve the campus climate for diversity?**

**Recommendations** in this section reflect both the suggestions of committees that responded to the Executive Board’s request and ideas garnered from a variety of other sources. The fact that a committee is not listed with a particular suggestion should not be interpreted to mean that the committee need not address issues of diversity.

**To the Senate as a Body:**

1. Each Senate Committee should, sometime in fall quarter, engage directly with the topic of diversity as a campus goal and as a concern for that particular committee, using the suggestions below as a starting point for a discussion on ways in which the committee can contribute to making UCLA a more diverse, equitable, and inclusive environment for all. Without diluting the Moreno Report’s focus on race and ethnicity, committees should consider the impact of bias and discrimination on all members of the campus community. As part of that engagement, every Senate committee should invite a campus diversity officer to one of their early meetings. The Senate office should work with the Office of Vice Chancellor for Diversity, Equity and Inclusion to identify the individual or team of individuals who might best speak to the particular purviews of each committee.

2. The Senate should create a Minority Review Committee (MRC) as described below.
   
   Central to the Moreno Report was that underrepresented minority faculty reported experiencing discrimination during hiring, advancement, and promotion that affected the setting of salary levels during these events. Moreover, this discrimination has been long-standing. This is clearly reflected in the findings of the recently-released Campus Climate Survey: only 31% of underrepresented minority faculty at UCLA—defined as Afro-Americans, Latinos/as, and Native Americans—thought that “tenure & advancement standards are applied equally to all faculty” (as opposed to 58% of “White faculty” who thought they were applied equally). This is clearly a serious problem that must be rectified.

   To permanently alleviate such a situation will clearly be a long, drawn-out process whereby perceptions, policies, and actions are changed and a personnel process established and administered by those most minority faculty consider to be respectful, fair, just, and competent. Even given the establishment of such a process and administrators, it will take years before long-standing patterns of discrimination are addressed at the individual level, if they ever are given resignations, deaths, and
retirements. A procedure is needed whereby discriminatory personnel issues of minority faculty are addressed as soon as possible. This should involve the examination of the personnel files of all minority faculty at UCLA in a timely matter to ascertain if all are at the appropriate rank and level. Given the clear lack of faith in the fairness of the personnel process seemingly at all decision-making levels, it is proposed that the examination and any decisions rest with the EVC and Provost.

The Office of the EVC and Provost could address the issue directly through establishing a “minority personnel advisory group” to examine underrepresented minority faculty personnel files and discuss appropriate remedies with the EVC and Provost. Such a group could be informal or formal. It should consist, however, of individuals drawn primarily from former Council of Academic Personnel (CAP) members, Committee of Privilege and Tenure (P&T) members and, of course, senior minority faculty. This could be an on-going or extant only for a limited period. Alternatively, a full-fledged Minority Review Committee (MRC) with appropriate supportive personnel could be established for a five-year period (subject to continuation if deemed necessary) whereby the personnel file of any under-represented minority faculty may be reviewed to ascertain if they are at the appropriate rank (and by implication salary). This could be done pervasively or only at the request of such a faculty. The Committee should take into account that patterns of discrimination may have covered decades and may have taken a significant toll on the accomplishments of a faculty member, as suggested in the Moreno Report. The MRC might operate along the lines of the Council of Academic Personnel (CAP) in terms of reviewing files presented to them regarding teaching, service and research; however, the focus should be on the entire career. Extant files could be examined or an assembly of a new file could be done by the faculty member (perhaps assisted by the relevant department’s personnel officer).

The Committee should report its individual case findings and recommendations directly to the Executive Vice Chancellor (EVC) and Provost, but perhaps as well as to the Vice-Chancellor for Academic Personnel and CAP, both of whom could have an opportunity to communicate agreement/disagreement to the EVC and Provost. Committee membership should include former members of CAP and P&T and minority faculty, and not necessarily be limited to those of Step Six or higher. Reimbursement for what will undoubtedly be time-consuming service should be along the lines of that for service on CAP.

We realize this is an extraordinary suggestion, but these are extraordinary times. The patterns of discrimination in the personnel process of underrepresented minority faculty should be addressed immediately and emphatically. There is clearly a crisis of faith in UCLA’s personnel process by minority faculty, faculty who may very well have no faith in UCLA’s desire and ability to remedy the situation. We also realize that there may very well be a “backlash” against minority faculty if a formal special committee is formed to examine existing and past discriminations. It should be realized, however, that there is already a special CAP to examine clinical faculty and the consideration of a special one for those in the Arts. Moreover, the proposed MRC would not operate instead of CAP but alongside it to examine whether past discrimination has occurred. Every faculty at UCLA is subject to a normal personnel process which can address a faculty’s current situation through accelerations and/or increases in salary level. The issue for minority faculty is that this normal process has not worked.
To the Legislative Committees: Executive Board, Council of Faculty Chairs (CFC), Legislative Assembly (LgA)

1. The University Committee on Affirmative Action and Diversity (UCAAD – the UC Senate committee that corresponds to the UCLA Committee on Diversity and Equal Opportunity) in 2006 and 2014 recommended that CODEO be represented on the Executive Board of the Senate. The Executive Board should act on that recommendation.
2. An early meeting of the Council of Faculty Chairs (CFC) and the Senate Committee Chairs should include a presentation on micro-aggression and the impact of discrimination on the university environment. The campus diversity officer should also be invited to attend the meeting so the chairs are familiar with the person and the office.
3. Senate and administrative leadership should continue to ensure that CFC and Senate Committee Chairs should continue to be invited to campus leadership diversity workshops.
4. Senate leadership should work with the administration to ensure that Faculty Executive Committee chairs be invited to all diversity training for department chairs offered within their school or division.
5. The Legislative Assembly should continue to have regular briefings on diversity-related issues on campus. When the Vice Chancellor for Diversity is appointed, she/he should be invited to address the Legislative Assembly to inform the faculty on emerging plans for the office.

To the Academic Programs and Policies Committees: Committee on Continuing and Community Education (CCCE), Committee on International Education (CIE), Committee on Teaching (COT), Committee on Undergraduate Admissions and Relations with Schools (CUARS), Council on Planning and Budget (CPB), Intercollegiate Athletics Committee (IAC), Graduate Council (GC), Undergraduate Council (UgC)

1. CUARS should continue its oversight of the holistic admissions process and its evaluation of charges that are made challenging its use in admissions to UCLA. It should initiate conversations with Associate Vice Chancellor for Enrollment Management Youlonda Copeland-Morgan about serving as an *ex officio* administrative representative for the committee. As UCLA becomes more directly involved with community recruiting, partnerships with community colleges and other such activities, CUARS should explore new possibilities for greater faculty engagement with those programs.
2. CIE should help the Senate formulate strategies for understanding diversity in its global context.
3. COT – The Committee on Teaching is currently working with representatives of UgC, the Office of Instructional Development and others to consider ways of incorporating questions of inclusion and diversity into the evaluation of instruction. It should present its recommendations in the fall.
4. Graduate and Undergraduate Councils – These two committees have a particular involvement with diversity on campus for several reasons. First, they are involved with
issues of curriculum, program development, and, of course, program reviews. The following recommendations are directed toward the program review process:

a. Issues of diversity, equity, inclusion, fairness, and climate are all critical to students’ learning experiences in the classroom. For that reason, those issues much be seen as integral to program reviews, not as peripheral to them. Review teams should be expected to consider diversity issues and to provide a section in their reports that speaks specifically to them.

b. Members of both the graduate and undergraduate councils should receive training on issues of diversity before they begin their reviews. This training should be consistent with, for example, the training provided department chairs. Review teams should be aware of and attuned to examples of micro-aggressions within the department as they conduct the review.

c. Departmental self-reviews should address the topic of diversity as it applies to the composition of the department, the content of the curriculum, and efforts the departments make to foster a comfortable and inclusive learning environment.

d. Pre-meetings with deans and department chairs should include a discussion of diversity and equity issues.

e. The questionnaire currently sent from the Senate to faculty in departments being reviewed needs to be revised to include questions on diversity and inclusion.

f. To ensure that the above recommendations become a regular part of the review process, they should be incorporated into Appendix XVI: Graduate Council and Undergraduate Council Procedures for Academic Program Reviews.

g. The Senate needs to clarify that any group of concerned faculty or students can ask – and get – time during the review to present its concerns to the review team. It also needs to make clear that provisions for meeting away from the department (as individuals or as a group) are possible if there is fear of retaliation.

h. A better mechanism needs to be put into place for responding to evidence of discrimination and hostile environments uncovered in the review process by the Administration. The Vice Provost for Diversity has been invited to program review exit meetings since 2008. It is important that a representative from the Office of the new Vice Chancellor for Diversity, Equity and Inclusion be included in all future exit meetings. Where program reviews identified issues of discrimination and hostile environments, progress review reports and meetings should also include this office as well.

i. Program reviews should serve as “early warning systems” to departments and the administration of discriminatory practices occurring within units. The three year summary of issues in program reviews now being written for the administration should provide one mechanism for achieving this.

To the Governance Committees: Committee on Academic Personnel (CAP), Committee on Committees (C on C), Grievance Advisory Committee (GAC), Committee on Charges, Privilege & Tenure (P&T), Rules & Jurisdiction (R&J)
1. **CAP**
   a. The waning practice of allowing a chair’s letter in an individual’s personnel file that is unseen by that individual until the personnel action is complete should be eliminated completely. If such a letter is included along with the department letter, it should, like the department letter, be made available to the candidate for response before a personnel file leaves the department. (See APM 220-80e)
   b. CAP members need to be introduced to the impact of micro-aggressions and discrimination on individuals and their careers and to the subtle language of discrimination that can appear in promotion files. This might be done as part of the training for CAP members provided by the Vice Chancellor for Academic Personnel or by participating in a workshop on those topics offered elsewhere on campus.
   c. CAP needs to clarify and share its strategy in evaluating the diversity-related information that has already and will, in the future, become part of the dossier.

2. **C on C**
   a. C on C should continue its ongoing efforts to identify both diverse faculty and faculty interested in diversity to serve as members of each of the Senate’s standing committees and on each of the review and task force committees that it vets for the administration.
   b. In recruiting members for Senate committees, C on C should present Senate service as a form of “leadership” training to better understand the campus and to have a voice in finding solutions to problems like discrimination and bias as outlined in the Moreno Report.
   c. The processes C on C uses for nominating Senate committee members and in vetting nominations for other campus committees is not readily transparent, a fact that raises concerns about its fairness and the Senate’s. The Committee (with the assistance of the Executive Board) needs to make its activities more transparent.

3. **GAC** (in addition to the recommendations above)
   a. GAC needs to function as a committee as well as the loosely organized set of advisors that it has become. Its role is of critical importance in assisting faculty understand their rights and options for redress through the Senate and other UCLA offices. Ensuring that each of the faculty advisors is knowledgeable and that advice is consistent is necessary for serving faculty needs.
      i. The committee (including its ex officio members, the chairs of Charges and P&T) needs to meet minimally once a quarter in addition to meeting as needed. There may be valuable synergies in meeting with representatives from the Ombuds office or other offices on campus that provide similar advisory services. Fall quarter should involve training on Senate and campus-wide processes for dealing with grievances. Other regular meetings should provide an opportunity to share consultations in a way that preserves anonymity but that lets committee members have a sense that they are providing consistent information on procedures.
ii. The committee needs to revise its Grievance Form. The current form, while providing information for the Senate office, has little specificity and does little to help those seeking its advice understand the options available to them through the Senate or elsewhere on campus. This information will be particularly helpful for those who decide subsequently to file either a grievance or a charge. Other UC campuses ask those seeking advice to provide basic information on the grievance, including the relevant sections of bylaws, appendices, or the Faculty Code of Conduct that have been violated. (See, for example, UCI’s [Grievance Form].)

b. GAC needs to work with Charges, P & T, and Senate Leadership and staff in creating materials that clarify Senate processes and alternate routes for faculty and those with grievances against faculty to seek resolution for their complaints.

4. Charges: (see Appendix A for a fuller discussion of the points raised here)

a. Members should undergo training at the beginning of their service (can be waived for those who have served before) and be given a comprehensive committee manual to avoid a “learn as you go” experience.

b. The role of the Charges committee in investigating violations of the Faculty Code of Conduct needs to be clarified, as well as its relationship to the other offices on campus that investigate charges against faculty.

c. The committee, in consultation with the Vice Chancellor for Academic Personnel, needs to standardize the information provided to the VCAP after its deliberations and the nature of this information should be included in the explanation of its processes. Minority opinions should be included. The question of forwarding its findings as an investigative body should also be addressed.

d. Even as the discussion referenced in b) occurs, Charges needs to make its investigative processes more transparent to those who want to file a charge or against whom a charge is filed.

5. Privilege & Tenure:

a. Like GAC and Charges, P&T must revisit the materials it makes available to the campus community, explaining its procedures in a clearer fashion.

b. The committee should re-initiate the practice of a quarterly meeting to facilitate training and ensure consistency of practice.

c. The committee should take greater advantage of the provisions in the bylaws that allow hearing committees to include faculty other than P&T members. The inability to convene enough P&T members for a hearing has slowed the resolution of cases before P&T which creates an unnecessary burden for those charged. When possible, these additional faculty members should be chosen in part to improve the diversity of the perspectives already represented on the committee.

d. Alternatively, P&T might consider recommending that its membership be enlarged and deployed differently. One model that exists has a subcommittee
tasked with handling only grievances (SBL335).

6. **Rules and Jurisdiction:**
   a. As it has in the past, R&J must continue to scrutinize changes to department, school and Senate bylaws for procedural inconsistencies and for practices and procedures that may lead to unfair or discriminatory treatment of faculty, students or staff.

**To the Committees on University Community: Academic Freedom (AF), Committee on Diversity and Equal Opportunity (CODEO)**

1. **Academic Freedom:**
   a. AF must occupy a central role in considering whether proposals suggested here or developed subsequently will operate within the context of academic freedom that is also a foundation of the university and fundamental to faculty rights.

2. **CODEO:**
   a. This committee must continue to be the Senate’s primary caretaker of and proponent for diversity. When the new Vice Chancellor for Diversity, Equity and Inclusion is appointed, the committee’s bylaws should be revised to have that person be one of the *ex officio* Administrative representatives. Ongoing dialogue between CODEO and that office will benefit both and help UCLA move toward creating a campus climate better than that described in the Moreno report.
   b. CODEO representatives on various campus committees and task forces (CODI, the pay equity task force) should serve as communication channels between the committee and those endeavors, bringing insights from one to the other. CODEO should also help to make the Executive Board aware of the goals and accomplishments of those committees.
   c. CODEO should engage more directly with the first of its charges: to provide advice to the University administration on policies/programs to advance faculty diversity, including the recruitment and retention of women and underrepresented minorities. It is important that other Senate committees that encounter evidence of discrimination share that information with CODEO so it can provide advice and recommendations to the administration and to the Senate.

**To the Senate and the Administration:**

1. Even as UCLA tries to address diversity in the present, it has no good mechanism to address the long-standing effect of discrimination in the past. Faculty who have experienced various forms of discrimination while at UCLA today are at a lower rank and earn less compensation than other faculty members. UCLA must look at those long-term effects of discrimination on individual careers to correct their impact on individuals and to learn how to keep similar practices from happening in the future.

2. Other UC campuses have appointed diversity officers inside each department who are charged with notifying campus leaders of discriminatory practices in hiring and
admissions and in helping to identify circumstances that threaten a healthy departmental climate. UCLA should consider implementing such a strategy in addition to placing such an officer in each school or college. In either instance, the Senate should include that officer in its program reviews.

3. It is important that the chairs of appropriate Senate committees be made aware of or participate in the diversity training that is provided to department chairs. Both the Moreno Report and the Campus Climate Survey identified departments as the locale for much discontent. Senate committees tasked with responsibilities for reviewing departments would benefit greatly from a clearer understanding of expectations for increasing diversity and managing equity and inclusion.

4. A joint Senate-Administrative work group to consider the best pathway (most consistent with the principles stated above) for moving a charge against a faculty member from a complaint to informal resolution or a formal Privilege and Tenure hearing should be charged as soon as possible. Such a work group would be valuable for both the Administration and the Senate in addressing concerns in the Moreno report and in this document. (See Appendix D)
Dear Colleagues,

As you know, earlier this month Chancellor Block released a report on discrimination, which was the result of a taskforce led by former California Supreme Court Chief Justice Carlos Moreno. If you haven’t already, I ask that you review the report in committee.

As you will see, Academic Senate processes feature prominently in the report. Last year, we took the important step of modifying Academic Senate bylaws to allow for collaboration between our Committee on Charges and an administrative officer charged with investigating allegations of racial or ethnic harassment and discrimination. More recently, the Senate staff has produced and posted on our web page flow charts to make more transparent the steps involved in grievances and charges. But clearly there is more that can and should be done.

I am in the process of convening a taskforce that will look at Academic Senate bylaws, polices, and procedures with a view toward improving our climate of inclusion and better enabling our commitment to fight discrimination and harassment. As you review the report, I ask that you consider the Academic Senate through the lens of your committee mandate. What changes should we make with regard to Academic Senate processes, bylaws, and procedures?

The taskforce will convene in January, 2014. I therefore ask for your recommendations, insights, and suggestions by December 6, 2013. Please copy your responses to Academic Senate MSO and Executive Assistant, Serge Chenkerian (schenkerian@senate.ucla.edu).

Thank you in advance for your assistance with this important matter.

Sincerely,

Jan Reiff
Academic Senate Chair

Cc: Executive Board
Jaime Balboa, Senate CAO
Linda Mohr, Senate Assistant CAO
TO: Jan Reiff  
Chair of Academic Senate  
FROM: Council on Academic Personnel  
RE: Comments on Moreno Report  

CAP received a copy of the Independent Investigative Report on Acts of Bias and Discrimination Involving Faculty at the University of California, Los Angeles (“the Moreno Report” or “the Report”) on November 4, along with your request that any comments from our committee be submitted to you by December 6, 2013. This memorandum is in response to that request.

Committee members individually read the Moreno Report and collectively held a discussion of the Report and its implications. As members of the Academic Senate and the UCLA faculty we share the concerns of many that the conduct described in the document is deeply troubling, contradicts the university’s responsibilities and commitments and must be addressed as soon as possible. We think that the report represents an important first step but stress that this issue cannot be allowed to slip off the agenda and should be given the highest priority.

As CAP, the Committee obviously does not have direct responsibility for the implementation of the Moreno Report recommendations. We did think that the proposal to hire a Discrimination Officer and establish mechanisms to address current procedural and reporting deficiencies makes good sense as it would avoid some of the problems regarding the lack of clear lines of responsibility and authority. The current mechanism for investigating and addressing sexual harassment certainly is far superior to the diffuse and unclear structures for dealing with incidents of racial bias.

Since CAP is restricted to evaluating the dossier before it in assessing cases for promotion and appointment, necessarily CAP can consider only the material presented. Thus, to the extent that information pertaining to bias never makes its way into any formal grievance or into any evaluation, CAP believes that much of the work to correct these reporting deficiencies needs to happen in advance of the dossier’s arrival at CAP. However, we note that there are ways to address one of the major issues that the Report identifies which is the lack of accountability for acts of bias by faculty. While we affirm that there is a community-wide responsibility to address bias, we think that the failure to impose appropriate consequences for faculty who commit bias is deeply problematic and can lead to an erosion of confidence and perceived legitimacy, not only for the specific unit involved but for the institution as a whole. The systematic failure to hold accountable those who
behave in a biased manner towards other members of the UCLA community then must be addressed. At the same time, procedures must be established to allow for those who experience bias to report it without imposing onerous burdens or undue procedural hurdles.

The committee offers the following suggestions:

- Where relevant, CAP should consider how experiences with discrimination may have negatively impacted productivity. Social science and public health research has documented that experiences with discrimination—chronic and immediate, overt and covert—take a measurable toll on the mental and physical well-being of people who experience them. In the context of academic performance, it is well documented that discrimination may have negative impacts on academic achievement. While there is often both internal and external pressure to try to overlook incidents of bias and to disprove biased opinions by stellar work performance, this kind of approach is frequently extremely costly in terms of detriments to health as measured by reactions to long term stress. One can therefore surmise that discrimination could potentially impact the productivity of faculty of color at UCLA who are targets of such discrimination. Once a system for reporting and codifying experiences with discrimination is established, if a candidate believes that these experiences negatively impacted her scholarly productivity, teaching or service in ways that could jeopardize promotions and advancement, this information should be included in the dossier as material relevant to CAP’s determination. CAP also recommends that candidates are informed that negative impact of discrimination on performance is a factor that can be considered where relevant. To be clear, CAP cannot be involved in investigating any claims; rather, it would assess how such claims may have impacted relevant issues.

- The evaluation of chairs and Deans should include assessment of how they have handled issues of discrimination or bias. Recognizing that serving as department chair is often a difficult and underappreciated service task, we did not think that this measure of accountability could be productively imposed without focus, training and resources devoted to supporting chairs in recognizing the importance of responding to bias, and in providing clearer guidance for doing so. Deans also should receive training on the question of addressing bias and should be apprised that there is an affirmative duty to become aware of bias incidents and to become familiar with the relevant procedures for addressing them. The review of Deans’ performance should include how they have dealt with these issues, and in particular, whether chairs are supported in developing effective responses and are held accountable for failing to do so.
December 4, 2013

Jan Reiff
Chair, Academic Senate

RE: Committee on Committees’ Response to the Independent Investigative Report on Acts of Bias and Discrimination Involving Faculty at UCLA

Dear Jan,

On behalf of the 2013-14 Committee on Committees (ConC), I am writing to provide you with the membership’s feedback concerning the recent Independent Investigative Report on Acts of Bias and Discrimination Involving Faculty at UCLA, as issued by a task force led by former California Supreme Court Chief Justice Carlos Moreno. The ConC was alerted to the report at its meeting on November 7, 2013, and spent a significant portion of its meeting on November 21st discussing it. Members’ observations and concerns are summarized below and focus on a number of key issues revealed in the report, and the ConC’s consideration of related Academic Senate processes, bylaws and procedures.

First and foremost, the ConC is unanimous in its assessment that the acts of bias and discrimination revealed by the Moreno Report are completely unacceptable and have no place in a celebrated diverse institution like UCLA. Unfortunately, or perhaps fortunately with respect to these issues being brought forward, the revelations of the Moreno Report were very unsettling to the ConC’s membership. Some members shared their own anecdotal evidence of the pervasiveness of gender, racial and ethnic discrimination on this campus, and of the perceived inactivity of the University's senior administration to rectify it. The early statement by the Chancellor that this did not reflect the University as he knows it was mentioned as an indicator that either the highest level of leadership is very out of touch with the campus or that the desire to downplay even serious issues gets in the way of meaningful action. Members were outright angry after reading about the specific cases cited in the report. However, to be frank, many were also quite skeptical about the campus climate changing if significant efforts are not made at the top that hold not only the individual perpetrator, but also UCLA, accountable for permitting these egregious acts to occur in the first place. While a Chancellor’s statement of zero-tolerance may be effective on a smaller scale, members feel that the Administration must be willing to impose (and identify in advance) serious disciplinary actions on those who are found to be guilty of committing discriminatory acts. As stated in the report, current efforts by UCLA are directed towards “making whole the injured faculty member, without any repercussions to the offending party.” With no obvious penalties the University is condoning – and creating – a hostile environment for faculty, students, and staff.

Members commented that it is simply not acceptable for nothing to happen when reports of discrimination are filed. There is a common perception that perpetrators all too often go unscathed, and that the process even appears biased against the claimant. Such perceptions only perpetuate the problem, with likely countless claims going unreported. Even at the level of the Academic Senate’s judiciary committees a grievant is most often advised to attempt to informally resolve his/her concerns, which for many members equates to those concerns
being swept under the rug. Several members commented that the only seemingly effective means of resolving a grievance or charge is to employ outside counsel, which forces the University to respond. However, the expenses incurred by the University when settling these cases could go a long way towards reinforcing a campus framework that actualizes in everyday life the University’s stated commitment to diversity, and provide a safe and independent means for faculty, students, and staff to report acts of discrimination and bias.

With respect to your request to “consider the Academic Senate through the lens of your committee mandate” when reviewing the Moreno Report, the ConC has a number of observations and suggestions. As you know, the ConC’s primary task is to secure the appointment of new members and chairs for the standing committees of the Academic Senate. This mandate is very clear, as is its outcome in the reporting of all of these appointments to the Legislative Assembly at a minimum of once per year. However, the mandates of other standing committees may not be as clear, so ConC’s first recommendation – which is consistent with the recommendation it made in its 2012-13 Annual Report – is for “each committee (to) review its charge at the end of every year while in session to evaluate if it captures the committee’s current role, if it should be updated, or, if the charge remains unclear, whether the committee should be disbanded altogether.” While this latter option is not advisable for the Academic Senate’s judicial committees (P&T, Charges, and GAC) the principle of the recommendation is to encourage a holistic assessment of the committee’s operations to ensure that they remain effective and valuable for Senate faculty. Following meetings with judicial committee chairs in AY 2012-13, it became apparent to the ConC that the Committee on Charges was over-burdened with a large number of cases, but GAC and P&T were handling a comparatively light load. Such an imbalance might be indicative of a more systemic problem and, if these committees are meeting so infrequently, it seems questionable that there exists a rapport and trust amongst committee members and even an effective procedure to deal with cases in a fair and equitable way. The obvious loss of institutional and procedural knowledge from one year to the next presents clear obstacles for these committees to work effectively.

Regarding the judicial committees in particular, the Academic Senate may wish to consider a means of independently evaluating the committees’ mode of operation, and/or request greater detail in those committees’ annual reports, which could then be used to identify trends or give cause for a more thorough evaluation to ensure that they are meeting their charges and effectively serving their constituencies. While the ConC is not prepared to offer its assistance with evaluating judicial committee charges and outputs due to its own demonstrated workload, it might behoove the Academic Senate to consider assigning this task to the Committee on Diversity & Equal Opportunity (CODEO), which “provides advice to the University Administration on policies/programs to advance faculty diversity, including the recruitment and retention of women and underrepresented minorities.” The Academic Senate might also consider determining how other public and private Universities with a more harmonious climate are handling these issues.

Members acknowledged the formation of an Implementation Committee by the Chancellor, which will no doubt play a role in reviewing current Academic Senate processes. However, members feel that the Chancellor should provide greater clarification about the role of this committee, its mandate, and its anticipated outcomes. The Implementation Committee should be expected to not only evaluate divisional processes, but it should seek out and survey best practices at other comparable institutions, which would not only make sense from a management perspective, but from a legal one, as well. Members of ConC noted that the Implementation Committee members were overwhelmingly representing three professional schools (Law, Education and Medicine) while the infractions occurred throughout the University. Members were also concerned that the Moreno report so far only triggered the constitution of yet another deliberative committee and that the clear action plan specified in the Moreno report was not being implemented with the necessary urgency.
With respect to its own processes, the ConC considers diversity in all of its forms when making appointments to the standing committees of the Academic Senate. The membership takes great care when considering the composition of any given committee, but is especially careful to ensure the appointment of fair-minded and respected colleagues to the judicial committees. Given its respect for these colleagues, members surmise that any deficiency of the Academic Senate’s processes is systemic and not due to any incapacity of the committee’s membership. However, members of ConC do acknowledge that they get only very limited personal and no official feedback on the performance of individuals appointed to any committee or, as pointed out above, on the effectiveness of committees in general.

On behalf of the Committee on Committees, we thank you for the opportunity to comment on the Moreno Report. While it presents UCLA with some major challenges there is a sense of optimism reflected in the ConC’s own collegial and respectful interactions, which must somehow translate to the campus at large. It is with this spirit that I share ConC’s response and its willingness to collaborate with you and the committees of the Academic Senate to demonstrate the true merits of shared governance, mutual respect, and cross-cultural sensitivity.

With best regards,

Felix Schweizer
Chair, Committee on Committees

cc: Members of the Committee on Committees
    Linda Mohr, Interim CAO, Academic Senate
    Serge Chenkerian, MSO/Executive Assistant, Academic Senate
    Kyle Cunningham, Senior Policy Analyst, Committee on Committees
December 19, 2013

Professor Jan Reiff
Chair, UCLA Academic Senate

Re: Justice Moreno Report on Discrimination: Council on Planning and Budget Response

Dear Professor Reiff,

The Council on Planning and Budget (CPB) met on Monday, December 2, 2013, and discussed the Independent Investigative Report on Acts of Bias and Discrimination Involving Faculty at the University of California, Los Angeles (Moreno Report). The council was asked to consider how the Academic Senate might address the concerns raised in the report and more effectively strengthen its role in addressing discrimination affecting faculty. It was a lively discussion. It should be noted that some question was raised about the recommendation to create another administrative office since creating another office would only increase the bureaucracy and will probably require significant resources. In general, most of the discussion centered on the Academic Senate committee structure currently in place—Grievance, Charges, and Privilege and Tenure—and how to strengthen these committees because issues of discrimination involving faculty should include the Academic Senate. The following are the suggestions that were discussed:

- Senate committees charged with hearing issues alleging discrimination should systematically keep records of the issues brought to them, process undertaken to resolve the issue, the nature of the resolutions, and any other necessary record keeping. Perhaps members who serve on these committees should receive some training. Other possibilities may include a faculty member of the Law School to serve as advisor to the committees. These were some suggestions regarding these committees.

- Several members voiced concern that there is often no punitive outcome for the offender. Also, there was some report of a lack of trust in the reporting agency, i.e. senior Caucasian male professor protecting their own.

- On-line required training as we currently have for sexual harassment. While some faculty felt that the sexual harassment training was either not taken seriously or was not an effective
training mechanism, the fact that it is required keeps the issue in the forefront as an important issue and often some new elements are learned. The on-line training could also incorporate role of microaggressions and implicit bias.

- There should be greater efforts to diversify senate committees, particularly those mentioned above and CAP.

- Finally, the Council discussed the importance of examining aggregate data gathered by the relevant committees to determine where we stand with respect to improvement in addressing complaints of discrimination and to monitor the adequacy of the reporting processes used.

This summary reflects most of the discussion regarding the Moreno Report. We hope that some of these recommendations help in your overall discussion.

Sincerely,

Rosina Becerra
Chair, Council on Planning and Budget

cc: Joel Aberbach, Vice Chair, Academic Senate
    Linda Sarna, Immediate Past Chair, Academic Senate
    Linda Mohr, Interim Assistant Chief Administrative Officer, Academic Senate
    Members of the Council on Planning and Budget
December 4, 2013

Jan Reiff, Chair
UCLA Academic Senate

RE: Graduate Council Response to the Independent Investigative Report on Acts of Bias and Discrimination Involving Faculty at UCLA

Dear Jan,

Per your request the Graduate Council discussed the report on acts of bias and discrimination involving faculty at UCLA released by Chancellor Block, the result of a taskforce led by former California Supreme Court Chief Justice Carlos Moreno. After a lengthy and relevant discussion during the Graduate Council’s meeting on November 8th, I drafted a report that included the comments made during our deliberations, and sent it to all the incumbents via email. What follows are the insights and recommendations of the members of the Graduate Council, borne out of the discussion during our meeting, and the comments generated by the drafted report.

Let me start by stressing that the Graduate Council considers the allegations of racial discrimination a matter of the gravest concern, and something that was given absolute prominence at the Graduate Council meeting during which it was discussed. First of all, it was agreed upon that, although the report refers specifically to racial discrimination among faculty, racial discrimination (and for that matter, any kind of discrimination among faculty or any other member of the university including students and staff) negatively affects the whole campus. “Affect”, in fact, is too weak a word: “Contaminate” is more appropriate, in the sense that racial discrimination (again, any type of discrimination) has strong propagating powers, and tends to expand insidiously, if not cut short at its roots. Often, what we see is only the tip of the iceberg. Thus “isolated cases” are never such. They are the symptom of an often invisible, and therefore even deadlier, syndrome.

A syndrome, hélas, that also affects/contaminates our graduate student population, and here is where Graduate Council needs to intervene expeditiously and with the “zero tolerance” attitude endorsed by the Chancellor. There are two instances in the Moreno Report where graduate students are specifically mentioned, and identified as direct, or indirect (if “indirectness” is ever possible when discrimination takes place) victims of racial discrimination. On page 14, and under the rubric (b) “Incidents of Racism,” the following case is described:

“In 2008, soon after the professor [a Latino faculty member in the health sciences] was hired as a fully tenured faculty member at UCLA, a ‘senior faculty member’ in the professor’s department, upon seeing him for the first time in the hallway, asked loudly in front of a group of students: ‘What is this fucking spic doing here?’ Upset, the professor went to the assistant dean, who expressed sympathy but advised him that going to the dean of the school would only cause more trouble. The assistant dean promised that he would talk to the senior faculty member. The professor is not sure whether the assistant dean
ever did so. The professor stated that he still feels threatened by the faculty member, who is still at UCLA, and that he believes that the man left a screwdriver in the Latino professor’s faculty mailbox in 2010.” (Emphasis is mine).

Three issues stand out in this case, which the report defines as an “egregious incident.” First of all, it is profoundly alarming that an incident of these proportions remains hidden from public view and condemnation, and is disclosed only years after the occurrence. Second, it is even more egregious and unjustifiable that the Administration (in this case, an assistant dean) withholds support from the victim of discrimination, and discourages further action. The victim does not receive the necessary protection from his institution, and the perpetrator of a crime of racial hatred is never held responsible for his heinous act.

Third, and this of utmost importance to the Graduate Council, students were involved in this case, and had to witness racial discrimination first hand. The Moreno Report does not specify if these students were graduate students or undergraduate students, or a mixture of both, perhaps. In any case, the fact remains: students, the most vulnerable section of our academic population, witnessed an act of violence and racial hatred, and therefore became victims themselves. And UCLA, by not taking immediate and resolute action, utterly and miserably failed its student population. This is a fact hard to stomach, but a truth that needs to be openly confronted and acknowledged by all, the Graduate Council included.

The Moreno Report refers to a second case of racial discrimination that affects students, this time a graduate student, who became the targeted victim of racial hatred:

On page 8 of the Moreno Report and under the rubric, (b) “Formal Academic Senate Committees,” it states the following:

“The Academic Senate provided statistics to the Review Team regarding complaints filed with its formal committees from the period of 2007 to the present. During this time, two charges of perceived discrimination brought by faculty members were filed with the Charges Committee. One of the formal charges filed by a faculty member, brought in the 2011-2012 academic year, claimed that another ladder-rank faculty member had engaged in discrimination on the basis of race or ethnicity both against the complainant faculty member and a graduate student.” (Emphasis is mine).

As is apparent from the two cases quoted above, students and among them, graduate students, have become the specific targets and/or victims of racial discrimination. And in both cases, UCLA has failed to respond adequately. Needless to say, UCLA’s failure to take action further victimizes our student population as a whole, graduate and undergraduate alike.

The Graduate Council firmly believes that an academic climate tarnished with racial discrimination is detrimental to the campus population at large, particularly to its most vulnerable members: students. Therefore, the Graduate Council applauds the exhaustive investigation and firm tone of the Moreno Report. But it also notes that it is of crucial importance to stress two important facts, not necessarily emphasized in the report: First, that racial discrimination against faculty deeply affects students and harms them in a fundamental way; and second that, in order to effectively eradicate racial discrimination from our Campus, UCLA has to tackle discrimination as a whole, and address discrimination in all its forms. Other UC campuses have since long ago recognized these two essential facts. Berkeley, for example, has an Office for the Prevention of Harassment and Discrimination (OPHD) in place, with the first paragraph of its website stating the following:
“The Office for the Prevention of Harassment and Discrimination (OPHD) is responsible for ensuring the University provides an environment for faculty, staff and students that is free from discrimination and harassment on the basis of categories including race, color, national origin, gender, age and sexual orientation/identity.” (Emphasis is mine)

Note how Berkeley includes faculty, staff and students in its introductory paragraph, and, even more importantly, specifically states that discrimination and harassment can happen on grounds of a series of categories, such as race, color, national origin, gender, age and sexual orientation/identity.

There is general agreement among Graduate Council members that, as the Moreno Report suggests the establishment of a “centralized resource for fielding, investigating and making findings regarding [...] incidents [of racial discrimination]” (Moreno Discrimination, page 17) is of paramount importance for guaranteeing a safe, non-discriminatory climate on Campus. It was emphasized further during the Graduate Council meeting that a much needed “centralized resource” (in the form of a “Discrimination Officer”) should attend to the concerns of the Campus as a whole. In order to be truly effective, it needs to listen to concerns not only from faculty, but also from students, postdoctoral scholars, and staff.

In fact, Berkeley’s aforementioned OPHD follows precisely such a model of centralization. And, as it was suggested during the Graduate Council’s discussion of the Moreno Report, UCLA would probably benefit greatly from the methods and systems implemented by other UC Campuses in regards to the efficient prevention of all forms of discrimination. UCLA should take a close look at universities nationwide that have become exemplary for their highly diverse campuses, the welcoming academic climate that these universities have succeeded in creating, and their zero tolerance vis-à-vis any type of discrimination. Moreover, UCLA should also explore its own pedagogical training and implement sensitivity training for anyone (faculty, lecturers and TAs) who directly interfaces with and educates our students. We must lead by example.

The Graduate Council generally agrees with the final recommendations of the Moreno Report: A. Chancellor’s Policy Statement; B. Discrimination Officer; C. UCLA Procedure for Responding to Reports of Incidents of Bias or Discrimination; D. Creation of Gateway; E. Implementation of Recommendations (pages 21-25). Recommendation A, namely, a statement by the Chancellor that declares “zero tolerance” for all incidents of discrimination, was deemed absolutely essential by the Graduate Council. Discrimination will prevail on our Campus if it is not effectively and openly condemned by the highest levels of our Administration. Such a statement of “zero tolerance” should also include a proclamation of consequential sanctions for those who commit discriminatory acts; and, perhaps even more importantly, actual implementation of those sanctions when acts of discrimination are proven to have occurred.

Resolute measures endorsed by the Chancellor and channeled through a centralized resource (an Office on Discrimination), on the other hand, need to be accompanied by absolute visibility and accessibility; therefore the importance of a Gateway (recommendation D. of the Moreno Report, page 24). The Moreno Report further “recommends that prominent links to this website be placed on websites such the Office for Diversity and Faculty Development, the Office of Academic Personnel, and the website of the Office of Diversity Affairs at the David Geffen School of Medicine, among other appropriate websites” (page 24). In this regard, the Graduate Council had some observations to make, and some recommendations to offer. First, it was noted that the suggested websites were essentially geared towards faculty, a selection that once again implicitly “reduces” discrimination to an issue “solely”
affecting faculty members. The Graduate Council cannot stress this enough, on behalf of the graduate student population in particular, and of the whole campus population in general: Discrimination affects us all. It is an illness that --sadly and ironically enough-- does not discriminate. Therefore, the Graduate Council considers it paramount that “prominent links for this website be placed on websites” geared towards students (graduate and undergraduate) and staff as well. In regards to UCLA’s graduate student and postdoctoral scholar populations, whose welfare is of special interest to the Graduate Council, “prominent links to the website” should be added to the website of the Graduate Council, to the website of the Graduate Division, and to the website of the Academic Senate, among others.

During our Graduate Council meeting it was also noted that a system-wide campus climate survey was conducted in the last academic year. The results of this laudable and highly necessary effort, however, have not been published. The survey website https://diversity.ucla.edu/uc-campus-climate-survey-ucla states that the outcome of the survey will be announced during 2013. But the UCOP website now says that the results won’t be available until Spring 2014. http://campusclimate.ucop.edu/index.html. It is important to stress that any delays in making the results available to the UC community are detrimental precisely to the climate of our campuses that the review is trying to assess. Again, transparency, timeliness, and resolute effectiveness are essential. The Graduate Council has never been approached with more detailed updates about the campus climate survey, and it is the Graduate Council’s belief that it can play a crucial role in assessing the outcomes of the climate review, and in helping to contribute further to the improvement of the campus climate at UCLA. The Graduate Council encourages the administration to publish the outcomes of the campus climate survey as soon as possible, and to actively consult with the Academic Senate and its various committees on this matter.

Finally, the Graduate Council wants to point to yet another important role that it can play (and is, in fact, playing already) in UCLA’s concerted effort to effectively ban discrimination (in all its forms) from Campus. As you, as Chair of the Academic Senate, have indicated to me, as the Chair of the Graduate Council, on several occasions, the routine evaluations of Departments and Programs, in which the Graduate and Undergraduate Councils play fundamental roles, are (or should be) conceived and promoted as “early warning systems” able to identify discrimination issues (on the levels of faculty, students, and staff) still (one can hope) at its early stages.

Let me stress that I cannot agree more with you on this, Jan. From my experience as a member of the Graduate Council, and a member of several review teams visiting Departments representing both “north” and “south” campuses, I was soon struck by how often, and how persistently, diversity surfaced as an issue in many of the reviews. But I was also surprised and discouraged by what I would characterize as an alarming dissonance between the urgency of the concerns voiced in many of the interviews, and the ancillary role given to these concerns in the oral and written reports resulting from reviews. Diversity concerns are a frequent presence in many Departments. It has grown into a veritable leitmotiv, hélas, one of those recurrent themes that, instead of downplaying or even openly ignoring, we should effectively use and interpret as “early warning signs.” To pro-actively address issues of diversity and discrimination, the Academic Senate, in collaboration with the Graduate and Undergraduate Councils, should consider embedding its own “zero tolerance” statement into the program review process, as well as providing review team members with the tools and resources they need to identify these “warning signs” and making recommendations to resolve them effectively; or, in evident cases, counsel any victim of discrimination whose case comes to light during the program review process.

Not only do “early warning signs” surface during the reviews of Departments and Programs across campus, but they also appear during routine Graduate Council meetings when many cases of such a
diverse nature are discussed around our table. For example, recently one of our graduate student representatives brought to the attention of the Graduate Council the inclusion in the official Student Code of Conduct document, posted online, of the word “sodomy” as a way of describing certain sexual acts, and of assisting students in identifying possible sexual assault situations. As the graduate student representative rightly pointed out, the word “sodomy” is often perceived as offensive and discriminatory by certain sectors of the population. This, again, is a matter of grave concern, and something that should not be treated as an isolated occurrence. As was discussed during our last Graduate Council meeting, an incident such as the one just mentioned becomes alarmingly relevant and symptomatic in the present climate at UCLA, and the developments referred to in the Moreno Report.

In sum, Council members agree that the Graduate Council has a crucial role to play in the effective fight against discrimination in all its forms on our campus. We and what we do constitute, in more ways than one, an “early detection and warning system,” and the Council has the potential to become an even more important mechanism for efficiently resolving situations that could lead to even more discrimination and injustice, so detrimental to the well-being and sense of safety and dignity of our graduate student population.

The Graduate Council is looking forward to a close collaboration with the other committees of the Academic Senate, and with the university administrators, in regards to all matters concerning the improvement of diversity and tolerance on our campus.

Sincerely,

[Signature]

Maite Zubiaurre, Chair
Graduate Council

Cc: Members of the Graduate Council
    Linda Mohr, Interim CAO, Academic Senate
    Serge Chenkerian, MSO/Executive Assistant, Academic Senate
    Kyle Cunningham, Policy Analyst, Graduate Council
December 6, 2013

To: Professor Jan Reiff, Chair  
   Academic Senate

From: Professor Leobardo Estrada, Chair  
   Undergraduate Council

Re: Undergraduate Council Response to the Justice Moreno Report

On behalf of the Undergraduate Council, I would like to thank you for the opportunity to review and opine on the Justice Moreno Report. The membership discussed the report at its meetings on November 15, 2013 and December 6, 2013, and denounced the incidents of bias and discrimination experienced by UCLA faculty. The Council recognizes the far-reaching impacts of discrimination and would like to draw attention to the potential effects on undergraduate education at UCLA.

Bias and discrimination are reportedly behind some departmental decisions which could determine which professors are permitted to teach certain courses, the scholarship that is taught, and with whom the students have the opportunity to interact. Every faculty member’s scholarship should be equally-valued and represented on the UCLA campus, and students will benefit from a diverse presentation of perspectives. While the report focuses on faculty, it should be noted that a poor climate within the faculty ranks will spill over and affect the learning experience of undergraduate students.

The membership was particularly saddened and deeply disturbed to learn that some incidents of racial discrimination occurred in the presence of students. As a top-tier higher education institution, it is our obligation to lead by example and act swiftly to condemn and resolve any acts of bias on our campus. The Undergraduate Council urges the Administration to move beyond the creation of a Diversity Officer to address the root cause of the problems expressed in the Justice Moreno Report, and facilitate the necessary mechanisms to prevent future acts of discrimination.

Thank you, again, for the opportunity to provide feedback in response to the Justice Moreno Report and for considering the Council’s concerns. Please contact me (x56574; leobard@ucla.edu) or Academic Senate Policy Analyst Melissa Spagnuolo (x51194; mspagnuolo@senate.ucla.edu) if you have any questions.

cc: Linda Mohr, Interim Chief Administrative Officer, Academic Senate  
   Melissa Spagnuolo, Principal Policy Analyst, Academic Senate
To: Jan Reiff, Chair, UCLA Academic Senate

Fr: Christina Palmer, Chair, College Faculty Executive Committee

Date: December 6, 2013

Re: College FEC response to the Moreno Report

The College FEC discussed the Moreno Report at our committee’s meetings on November 15\textsuperscript{th} and December 6\textsuperscript{th} with Chancellor Block joining us for an informative discussion about the report at our first meeting. Our committee commends both Chancellor Block and Executive Vice Chancellor and Provost Scott Waugh for establishing a committee to examine complaints from minority faculty—African-American, Asian-American, Chicano/Latino or American Indian—about pervasive acts of discrimination on campus. Based on our discussions which covered a wide range of topics, we elected not to vote on any particular motion related to the report. Instead, I recount here a summary of the points that were made during our discussion:

1. The Report focuses on the last few years and partially faults the top leadership of Chancellor Block and EVC/Provost Waugh for not reacting quickly or strongly enough to the mistreatment of minority faculty. This is not quite fair to the current leadership as several of our members believe acts of discrimination are much more pervasive and long-standing than is communicated in the report. To focus on the present is to ignore the past and the conditions that have created the current situation. The report itself surmises that it has considered only the “tip of the iceberg.” The Moreno Report did not consider the full depth of discrimination at UCLA, only what is more readily observed.

2. Much of our discussion focused on the critical role of two faculty committees in the welfare and careers of our faculty: the Committee on Privilege and Tenure (P&T) and Council on Academic Personnel (CAP). The former examines alleged acts of faculty misconduct, including discrimination in all forms; the latter recommends faculty hiring, tenure, and advancement and promotion. At least one of our members served as chair of both committees.

   While serving on P&T, the member recounted hearing testimony from minority faculty about acts of humiliation, degradation and injustice. While the member believed the Committee helped as best it could to address these complaints, the member reported feeling as though the committee’s efforts encountered resistance from administrators and faculty colleagues; the end result being that satisfactory solutions rarely occurred.

   While serving on Council on Academic Personnel (CAP), one of our members recounted a period where there were no women appointed to the committee as an example of lack of diversity on a committee critically important to the career advancement of UCLA faculty. Moreover, on numerous occasions the member observed instances in which minority faculty were more closely scrutinized than other faculty, and more likely to have their cases reviewed by specially-appointed, outside committees, a procedure
used to indicate misgivings. While minority faculty could be held to the very letter of guidelines used to make decisions, the committee was perceptively less strict with non-minority cases.

Thus, while CAP and P&T have the potential to remedy acts of discrimination, they are in fact products of a central problem at UCLA – our campus lacks fundamental intellectual and moral appreciation of diversity. It is true that UCLA has a diverse student body, although it has become less diverse in the last decade, as the Moreno Report observes, and we also have a diverse faculty—slightly more than 25 percent of faculty are African American, Asian American, Hispanic or Native American. It seems appropriate that we advertise our diversity as an asset; however, faculty appreciation for intellectual diversity appears weak as documented in the report. As a community, we ought to embrace minority faculty because it is morally right to do so and it furthers our collective wish to make UCLA a world-class institution.

With respect to CAP and P&T, our committee recommends that the Senate review the structures and charges of these committees and consider reforms that would enhance membership diversity, promote cultural values consistent with diversity and inclusion, enable committee members to recognize and minimize the effects of personal biases, enhance objectivity, and better handle complaints of bias and mistreatment.

3. Members also recounted instances of discrimination at the department-level where colleagues have lobbied against hiring, awarding tenure to or promoting minority faculty. Members also recall instances where subtle racial or ethnic comments have been made at faculty meetings about minority faculty, present or not. In some instances, a climate of secrecy exists within departments, which only serves to exacerbate problems. Members pointed out that the report overly faults administrators for biases, but neglects to address department culture as a key component of larger campus problem. Our committee recommends that department chairs, vice chairs, and faculty receive proper training to identify, address, and ultimately eliminate discriminatory behaviors.

4. Several members felt that the Moreno report was vague in its definition of bias or discrimination, e.g. at some points focusing only on racial bias, and at other points recognizing that bias and discrimination can be complex and involving a number of factors including religion, sex/gender, age, disability, sexuality, and ethnicity. The fact that prejudice is complex raises several questions about the recommendation for a Discrimination Officer.

a. Finding a home for the “Discrimination Officer.” Although the report is not clear about the scope of anti-discrimination policies and procedures that such an officer might be responsible for, it would be useful to know whether this important office would/should cover all forms of discrimination—ethnic, racial, religious, sexual, gender, etc. It might also assist matters if the report clarified where such an officer would be located. We already have Vice Provost Littleton’s busy office that focuses on equality, diversity, and faculty development. There is a similar one housed in the Geffen School of Medicine. And there are the Ombuds Office and the Sexual Harassment Officer. Other offices and committees also exist. Is the idea that this new position would have an entirely separate office of her/his own or a position that is placed in, say, Vice Provost Littleton’s office or the Ombuds Office? The problem becomes apparent in footnote 32 (p. 21), where the report states that the “Discrimination Officer’s responsibilities could encompass other forms of discrimination, including on the basis of gender, age, and sexual orientation.” For example, this observation raises the question whether we also need separate officers to address bias against LGBT faculty members. In other words, is the idea that the “Discrimination Officer” should primarily focus on race? Or should such an officer embrace other (and often related) forms of bias?
b. **The “Discrimination Officer” as source of “primary referral” for faculty reporting incidents of bias.** On p. 23, the report suggests that the university establish the “Discrimination Officer” as the main administrative resource for reporting bias. But it is unclear where this suggestion leaves all of the other officers and units that currently assist in addressing problems of bias on campus. It is noticeable that footnote 34 (p. 23) is longer than the paragraph it comments on. In particular, the expansive comments in this note suggest that the “Discrimination Officer” might have to maintain careful distance from the important work of Vice Provost Littleton’s office. Would such a separation of responsibilities benefit the task of combatting bias? The flowchart in Appendix B appears to do away with any possible dialogue between the “Discrimination Officer” and the existing units that discuss complaints of bias with faculty members.

Some/most members feel that a more comprehensively integrated, consultative model—one that benefits from using existing resources such as the Ombuds Office and the Sexual Harassment Officer—should be considered. Although it is significant to have a dedicated individual/office to handle discrimination complaints, several members fear that giving a “Discrimination Officer” wholly independent “authority” to embark upon autonomous “fact-finding investigations” at the very beginning of the process might result in one-sided conclusions and perspectives. In other words, the “Discrimination Officer” might start discriminating in biased ways. Perhaps the “Discrimination Officer” would need first to confer with a committee made up colleagues who already have expertise in issues such as racial and sexual harassment before drawing any conclusions as to whether a grievance is “found to lack merit or substantiation” (Appendix B).

Furthermore, although it seems appropriate that the Vice Chancellor for Academic Personnel receive the final report of the “Discrimination Officer” for presentation to the P&T Committee, several committee members also felt strongly that the “Discrimination Officer” should directly provide reports to the Chancellor and EVC as well to ensure that these senior administrators are fully aware of what is happening on campus.

5. **Rethink the term “Discrimination Officer.”** On p.3 the third recommendation in the bullet points is that there should be the “creation of a single Discrimination Officer.” There is an issue of linguistic sensitivity here. Most institutions would prefer either Anti-Discrimination or Non-Discrimination Officer.

6. Unfortunately, the report—while consciousness raising—did little to quantify the scope or depth of discrimination on this campus. Our committee felt a comprehensive assessment and reporting plan needs to be developed, if the campus is to benefit from the lessons learned from the Moreno report and the policies that will be developed as a result. We recommend, the outcomes assessment be developed in a manner that allows for cross-campus comparison.

As always, our membership appreciates the consultative process and welcomes the opportunity to opine on important matters like this. You are welcome to contact me at cpalmer@mednet.ucla.edu with questions. Kyle Stewart McJunkin, Academic Administrator, is also available to assist you and he can be reached at (310) 825-3223 or kmcjunkin@college.ucla.edu.

cc: Lucy Blackmar, Associate College Dean, College of Letters and Science  
Linda Mohr, Interim Chief Administrative Officer, Academic Senate
December 5, 2013

Jan Reiff, PhD
Academic Senate Chair
UCLA
Los Angeles, CA

Re: Moreno Report

Dear Jan:

I am writing as the FEC Chair for the School of Public Health offering our comments on the Moreno report. The report was discussed at our November meeting.

Let me begin by expressing appreciation for the work of Justice Moreno and the committee. The committee’s work was extensive.

One finding of the committee was both surprising and disturbing to our committee. The report appeared to document that victims of discrimination who have pursued complaints have been reasonably well served by the systems for resolving conflicts. Those who have carried out deliberate, conscious acts of discrimination do not appear to have been called to account. Some acts of discrimination may be unconscious or inadvertent, and in those cases, counseling, training and similar correctives are an appropriate approach to resolving the issue and improving the situation. But in the rarer number of cases where the acts are deliberate and intentional, holding those responsible accountable with more substantial sanctions is called for. The consequences for deliberate discrimination need to be increased, but the systems for assessment and punishment need to be able to distinguish between cases of deliberate and unintentional discrimination and respond appropriately.

Our committee was concerned about the introduction of another office into the mix of campus offices and officials dealing with discrimination. The report calls for the new office to be created as part of a process of standardizing the process of responding to incidents of perceived bias, discrimination and intolerance and for appropriate referrals. The report does not sufficiently address what the new standardized process would look like, how the new office would interact and integrate its activities with the other units, or even what the criteria and models are for appropriate referral.

We were also concerned that the call for more training and education was an inadequate response to the issues surfaced by the report. The report, while it examines a series of disturbing cases, is not comprehensive in its analysis of the issues of discrimination on campus, and ignores some important
issues including the experiences of nonfaculty and the question of campus environment. In Public Health, in our research and teaching, we regularly address issues of racial, ethnic, LGBT and other disparities in health outcomes, access and behavior, and disentangling the effects of genetics, environment, culture, education, economic status, active discrimination and other factors in interpreting how and why differences exist and how they might be mitigated. These are highly sensitive topics. One of the challenges we deal with is creating a climate of safety and respect in which all the members of our community, regardless of their race, ethnicity, gender or sexual orientation, economic status or cultural background, can deal with the substance of this work and the challenging conversations it sometimes requires. As we read the Moreno report, we did not see enough discussion of how to strengthen the campus culture of so acts of bias, discrimination and intolerance are less likely to occur or be tolerated. Training and education seem like inadequate responses to this challenge.

Regards,

Jack Needleman, PhD
Professor
Chair, Fielding School of Public Health Faculty Executive Committee
Los Angeles, December 11, 2013

Dear Senate Chair Reiff,

The GSE&IS FEC met on November 14 to discuss the Moreno Report, in response to Senate Chair Jan Reiff’s call to recommend what changes might be made to Academic Senate processes, bylaws, and procedures.

FEC members began by noting that the faculty of the Graduate School of Education and Information Studies is deeply vested in helping moving towards a more racially inclusive society. They also noted that the United States does not yet live up to the ideal of a post-racial society and that as such, the issues raised by the Moreno report far exceed the boundaries of the UCLA community. As well, they noted that sexual harassment policies have paved the way for similar comprehensive racial discrimination policies, and provide a model for raising awareness among faculty and all members of the UCLA community of the toxic consequences of discriminatory practices and behaviors.

FEC members felt that centralization of the grievance process was overall a good thing. Too many times, they noted, faculty that face discrimination issues must also navigate local resolution mechanisms rife with conflicts of interest. A centralized office will help de-link the grievance process from its institutional location in specific departments and schools, thus ensuring a fairer process. There was concern however that more needed to be done to prevent such incidents from happening in the first place.

Several FEC members felt that the review initiated by the Moreno report should not only examine of the efficacy of current university measures in terms of university’s admissions policies both and faculty hiring but also, personnel review. That it, it should examine the process whereby scholars and their scholarship are evaluated, and the ways this impacts tenure and professional advancement at UCLA. They noted that statistics related to the number of minority faculty denied tenure were
not available, and that such statistics would not necessarily be meaningful, since such faculty might choose to leave prior to the tenure process. It was suggested that facilitators, trained in issues of discrimination, might help resolve the sometimes delicate issues that can arise in the academic process.

Most of all, committee members expressed the sincere wish that the report would provide the opportunity for the UCLA community to educate or re-educate itself about the root causes of racial discrimination. Too often, they felt, the institutional response to such issues is couched in the language of liability and results in yet another web-based training program. In light of the seriousness of the issues raised by the Moreno report, the GSE&IS FEC felt that such a response would be, ultimately, a cynical one.

Following the FEC meeting, another discussion over email led to the following statement, which was endorsed by several FEC members:

Dear colleagues:

Based on the Report’s findings, I am in complete agreement that UCLA must develop a much more transparent, accessible, and consequential process for reporting, deliberating on, and adjudicating episodes of perceived racial/ethnic bias, discrimination or intolerance, particularly among the faculty. The process must be based on an unambiguous commitment to, and practice of, the highest standards of fairness, equity, cordial and civil interaction, impartiality, and regard for differing experiences and perspectives, which ultimately derive from the traditional academic culture of collegiality, open-mindedness, and intellectual freedom. Of course, academics can be just as frail, blind, insensitive, thoughtless, and just plain bigoted or mean as anyone else; but our shared intellectual, institutional and pedagogical mission demands that we hold ourselves and our peers to higher standards, beyond legal obligations or prescriptive codes of conduct. Reliance on the latter to solve larger institutional problems simply breeds a climate of cynicism and opportunism.

So in my view, what is called for is a fundamental re-engagement with and renewal of our academic values and rigorous faculty peer review and governance, in our own interests and those of our colleagues and the wider university. This is the wrong time to walk away from or surrender to administrators our basic responsibilities for supporting, sustaining, mentoring, critiquing, and when necessary, censuring our faculty peers, and applying fair and proportional sanctions when they are warranted on those occasions when they fail to meet our shared expectations.
I am concerned that throughout the Moreno Report there is an implicit assumption that faculty (especially tenured faculty) are unable or unwilling to hold one another accountable. My experience at UCLA on committees and task forces at all levels of the university has taught me otherwise. There is also the suggestion that the Academic Senate – our duly elected body for exercising the UC’s hard-won and exceptionally strong faculty governance system – is simply not as capable, effective, or impartial as senior administrators in articulating and upholding high standards of faculty conduct. Many of the comments quoted in the Report also seemed a shade vindictive, placing greater emphasis on outing and punishment, on “naming and shaming” colleagues, than on how we should go about building a system of more regular, explicit, constructive guidance and mentoring throughout our colleagues’ academic careers to reduce the need for such measures.

To suggest that a centralized process run by high-level administrators would be inherently fairer or more effective than faculty themselves in addressing institutional racial, cultural or ethnic bias is to imply that faculty governance and peer review are merely a Potemkin village designed to hide illegitimate privileges and power. It silently accepts the notion that the proper role of administrators, deans and chairs is to supervise and instruct an unreliable faculty in a superior-subordinate relationship. In healthy academic institutions administrators do not dictate the academic mission or set standards and sanctions for faculty performance; they facilitate, enable, and mobilize resources in the service of faculty-driven standards, priorities and objectives for scholarship, instruction, and service. One of the enduring strengths of the UC’s shared governance system is our partnership with administrative colleagues in an ongoing effort to realize our faculty-defined and –driven academic mission.

So in sum, I think the sense of crisis conveyed in the Moreno Report is in fact an opportunity to revive and expand faculty/Senate involvement in our peers’ professional advancement and well-being, not to hand that role to a tier of administrative overseers. The centralized, streamlined vision of a grievance process called for in the Report should reside primarily in the Senate, from entering allegations of bias or discrimination, to fact-finding and assessment, and the determination of disciplinary sanctions as needed. The Senate Committee on Privilege & Tenure and Committee on Charges are the appropriate existing venues for conducting these inquiries and determinations of fact and censure as warranted. This could be an important moment for us as a faculty and for the Senate to step in and make its role clearer to the whole faculty and university community at large, and to craft a stronger system of peer mentoring, education, and review. Once a body of faculty peers makes a determination in these cases, it seems to me that the implementation/execution, plus providing advice on the legal or employment
factors that may be involved, is the appropriate role for the university’s administrative officers.

Sincerely,

Jean-François Bandelli

GSE&IS FEC Chair, 2013-2014, Associate Professor, Department of Information Studies
TO: Jan Reiff, Chair Academic Senate
FROM: Scott J. Brandenberg, Chair, HSSEAS Faculty Executive Committee
RE: HSSEAS FEC Input on taskforce to look at Academic Senate bylaws, policies, and procedures following Moreno Report

The Faculty Executive Committee in the Henry Samueli School of Engineering and Applied Science discussed the Moreno report during our meeting earlier today. We are in favor of your action to form a task force to evaluate Academic Senate bylaws, policies, and procedures to improve our climate of racial inclusion, and to fight discrimination and harassment. Furthermore, we are in favor of improving transparency in the manner in which the University handles race discrimination allegations among faculty members.
MEMO

Date       December 4, 2013
From       Rodney McMillian, Chair, Faculty Executive Committee
            School of the Arts and Architecture
To         UCLA Academic Senate Jaime Balboa, CAO

RE  Moreno Report

The Faculty Executive Committee of the School of the Arts and Architecture reviewed the Moreno Report at our November 22nd meeting. We agreed with many of the recommendations in the report and that it should be pursued as an important addition to protections offered to human rights on our campus. We believe the Campus needs a central person, a Diversity Officer, who can investigate charges of discrimination and racial bias. Currently, there is no formal means for reporting instances of bias with assured response as there is, for example, in cases of alleged sexual harassment.

We understand discrimination to be defined in subjective ways. We discussed the need for as clear a definition of discrimination as possible in the bylaws that should include “micro-aggression--” types of discrimination that are more subtle and innuendo-based. There can be overt aggression, which is quite obvious, but “micro-aggression” is more difficult to prove yet damaging to the individuals and institutions implicated. It is further suspected that many faculty and staff are oblivious to their micro-aggressions (e.g., exclusion, discounting, stereotype assumptions, intolerance of diverse perspectives, etc.).

Additionally, FEC members asked for more clarification on the role of the Diversity Officer and how it would be analogous to the Sexual Harassment Officer. SOAA FEC members support the Discrimination Officer having a teaching/training function like that of the Sexual Harassment Prevention Officer. The workshops on Sexual Harassment are deemed very helpful. We also believe Teacher Assistants need this training and a system for handling grievances.

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1Micro-aggression is subtle and constitute “brief and commonplace daily verbal, behavioral, or environmental indignities whether intentional or unintentional, that communicate hostile, derogatory, or negative racial slights and insults toward people of color.” (Sue, et al., 2007)
Finally, another issue of concern is the relationship between the Office of Diversity & Faculty Development and the Diversity Officer. How would they work together? The SOAA FEC members believe the campus needs a legally trained person in this position. The Office of Diversity and Faculty Development is not set up in this way because it’s an academic position. Thus, how and which entity can bring reckoning to an offending faculty member in ways consistent with common sense balanced with First Amendment rights and academic freedom? Are there penalties for such behavior in place now? What strategies are in place for addressing a hostile Departmental environment of institutional discrimination – not just a grievance between a single individual/faculty person? Also, will the Academic Senate have to give up their own power and authority over faculty by bringing in a Diversity Officer?

It was noted that the Campus could protect itself from liability by addressing these issues.
January 10, 2014

Professor Jan Reiff  
Chair, UCLA Academic Senate

Re: Justice Moreno Report on Discrimination  
Dear Professor Reiff,

I am responding to your letter dated October 31st 2013 requesting feedback on the Moreno Report. The Committee on Diversity and Equal Opportunity (CODEO) reviewed and discussed the Justice Moreno Report on Discrimination at our November 5th 2013 meeting and again on January 6th 2014.

At both meetings, the committee had a long discussion on follow up recommendations for the Moreno Report. At our January 6th 2014 meeting, we discussed and finalized our recommendations that CODEO has for follow up actions to the Moreno Report.

1. **Biased Letters and Promotional Reviews**

   a. When the VC for Academic Personnel initiates a reassessment of a promotion case, the office should be able to consider requests to excise prejudicial letters and reports from the initial assessment. There should also be an option to skip the department level reassessment and go straight to the university (CAP) review committee in order to remediate the discrimination and prejudice that may have occurred at the departmental level in the initial assessment.

   b. To minimize the ease of writing biased letters, there was suggestion that the chair has to respond to a questionnaire that accompanies the chair’s letter. Questions may include: (i) Did the letter include minority comments? (ii) Were the same evaluation criteria commonly used in the department applied to the candidate? (iii) Was the chair’s letter written in a fair manner using the same format for other faculty? and (iv) How many faculty had previewed the chair’s letter and how many had comments?

2. **Ongoing Departmental Diversity Climate Studies**

   Some suggested that it is helpful to have mandatory periodic departmental diversity climate studies that focus on inequity or emerging inequity issues in the department. This may include faculty recruiting and promotion issues, experiences of women and under-represented minorities at all levels (ranks) in the department. The studies are to be conducted by external evaluators who collect a mixture of qualitative (interview) and objective (compensation, hiring, promotion, exit) data. The department is required to make progress in addressing issues that were raised from one assessment to the next.
3. **Assistant Professors**

One member noted that the report included only examples of discrimination reports made by tenured and senior faculty. The committee agreed that the likelihood of an Assistant Professor reporting acts of discrimination is very low for fear of retaliation and so it was suggested the committee also find a way to create a pathway for Assistant Professors to submit reports of discrimination.

4. **Monitoring of the Review Process**

When a discrimination or sexual harassment claim has been investigated and found to have merit, the university should commit to monitoring and proactively intervening in subsequent reviews and discretionary decisions on the individual who initiated the investigation. This is because the individual may be vulnerable to retaliation (e.g., merit reviews, promotions, teaching allocations, research budgets, summer support, graduate student allocation, etc.).

5. **More Informed Monitoring by All**

Accountability by faculty is an important issue and CODEO recommends that there be a well-advertised telephone number for faculty to call and report any CLEAR violation of APM rules.

We appreciate the opportunity to review the Moreno Report and provide feedback. CODEO will, as always, continue to work diligently to promote a work environment as free of all sorts of biases as possible.

Sincerely,

**Weng Kee Wong**

Weng Kee Wong
Chair, Committee on Diversity and Equal Opportunity

cc: Joel Aberbach, Vice Chair, Academic Senate
    Linda Sarna, Immediate Past Chair, Academic Senate
    Linda Mohr, Interim Chief Administrative Officer, Academic Senate
    Maya Moore, CODEO Policy Specialist
    Serge Chenkerian, MSO, Academic Senate
    Members of the Committee on Diversity and Equal Opportunity
TO: Corinne Bendersky, AGSM, Committee on Diversity and Equal Opportunity  
Susan Ettner, DGSOM, former member of Committee on Charges  
Juliana Gondek, Musicology, Committee on Privilege & Tenure  
Russell Thornton, Anthropology, College Faculty Executive Committee (former member of Committees on Academic Personnel and Privilege & Tenure)  
Maite Zubiaurre, Spanish & Portuguese, Germanic, Graduate Council, Executive Board  
Robert Cooper, Education, Committee on Undergraduate Admissions and Relations with schools

Dear Corinne, Susan, Juliana, Russ, Maite, and Robert:

I would like to thank each of you for your willingness to serve on the Academic Senate’s After the Moreno Report Task Force. The task force’s charge is simple to state but extraordinarily challenging in its scope: How should the UCLA Academic Senate address both the specific recommendations of the Moreno Report as well as the underlying issues articulated within the report? More specifically, we hope that the task force will make recommendations in two particular areas:

1) Are our current Senate procedures adequate for handling complaints of discriminatory behavior or bias involving faculty?
2) Are there efforts and activities that the Senate should be making to address the underlying causes that lead to incidents like those described in the Moreno Report or to improve the campus climate for diversity?

We have already posed the larger question to each of the Senate’s standing committees and to the Faculty Executive Committees of each of the schools on campus. The responses that have already been received are available on the Senate web site at [http://www.senate.ucla.edu/documents/1-CombinedMorenoReportResponses.pdf](http://www.senate.ucla.edu/documents/1-CombinedMorenoReportResponses.pdf). We will update this link as the remaining responses are received. The Moreno Report itself is available at [http://www.maildoc.ucla.edu/External_Review_Team_Report.pdf](http://www.maildoc.ucla.edu/External_Review_Team_Report.pdf). In addition, we will be providing documents as they become available that were prepared for and by the work group charged by UC President Janet Napolitano with a similar mission.

Given your past experience on Senate committees, we are hoping that you will be able to provide the Senate Executive Board with your report by the first week in February. That timing will let the Senate work with the committee appointed by Chancellor Block to consider corresponding issues from the administrative side. Toward that end, Serge Chenkerian will begin arranging a meeting time immediately.

Again, thank you very much for serving on this very important committee.

Jan Reiff  
Chair, Academic Senate
Appendix D: The Charges Committee: Is it Necessary? If so, what Additional Resources Should it Have?

One of the issues with which this task force struggled as a result of the Moreno report was the question of the ongoing role of the Charges Committee. Ultimately, the task force took an agnostic stance with regard to whether or not Charges should be subsumed into P&T. In reaching that conclusion, however, it is recommending that a joint Senate-Administrative work group be formed to revisit the process of determining whether formal charges ought to be filed against a faculty member. Current practices on both the Senate and Administrative sides do not conform to existing procedural documents. This task force should convene as quickly as possible, even while administrative processes are being put into place for the discrimination office and its investigators.

A brief background for that recommendation follows.

The Charges Committee, a committee unique to UCLA in the UC system (although some other campuses do have groups with some of the same functions), its charge is particularly difficult: deciding whether complaints/charges filed both by individuals and the administration about violations of the Faculty Code of Conduct meet the standard of “probable cause” to advance the charge to the Vice Chancellor, Academic Personnel (VCAP) and to the Committee on Privilege & Tenure. The committee’s role in determining whether a charge is to be filed against a faculty member is only advisory, though its opinions play an important role in determining whether an actual charge is filed. The VCAP, as the Chancellor’s designated representative, makes the final decision as to whether or not there is probable cause. If so, the VC may attempt to negotiate a settlement agreement. If the charge is pursued and no agreement is reached, the case is forwarded to the Privilege and Tenure committee (P&T). If the VCAP decides there is probable cause, even if the Charges Committee feels there is not, the VC can advance the case to P&T.

It is important to note that, when it was created, Charges was the primary investigative body for charges made against members of the UCLA Academic Senate. In the recent past, however, the committee’s singular role in that endeavor has given way to legally- and policy-mandated investigation officers: the Title IX officer now has primary responsibility for the investigation of sexual harassment cases; the Office of Research Policy & Compliance has a similar responsibility for investigating research misconduct. With the addition of new discrimination officers, primary investigative responsibility for charges of discrimination will rest in that office.

These developments have raised questions for the Charges committee, a committee that often likens its function to that of a grand jury in the legal system. That comparison works best when another entity conducts the investigation of charges and then presents that evidence to the committee. If an investigation comes to it via one of the external fact finding routes, the

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6 According to Appendix XII, Section 1, G/H of the Academic Senate manual (see appendix B below), the Chair of the Charges Committee is to be involved in the selection of fact finders in both instances and the fact finders serve as an “arm of the Charges Committee as well as” the Administration/Dean. These descriptions or current practices may need to be updated in the future.
6 http://www.sexualharassment.ucla.edu/default.htm
6 http://ora.research.ucla.edu/rpc/Pages/RPCHome.aspx
8 Policies and Rules for Hearings Before the Charges Committee; Committee Meetings Procedures
committee considers the report presented and determines whether that report (with additional testimony if it deems such testimony necessary) provides evidence that meets the probable cause standard. For more general claims of violations of the Faculty Code of Conduct that come directly to Charges, however, the Committee has to do the initial investigation in order to judge whether there is probable cause to forward the case to the VCAP. Sometimes, these cases, with the least support for investigation, are those for which it is the most difficult to determine whether the line between acceptable and unacceptable behavior has been crossed.

As policies for investigation of sexual harassment cases and research conduct have become more standardized and clearly articulated and as fact-finders who are specifically trained in those requirements conduct more of the investigations, the potential for differences between the evidence that Charges has for determining probable cause in externally investigated cases and investigations of less clearly articulated violations of the Faculty Code of Conduct grows dramatically. The Senate needs to work with the Administration to determine best practices for ensuring commensurate investigative standards and definitions for violations of the Faculty Code of Conduct that can be used for all campus faculty. It must also consider the place of the “product” of the Charges investigation, not simply the vote, in further deliberations by the VCAP and P&T.

In doing so, this work group must also be aware of one of the important roles that has evolved for the Charges Committee: to protect faculty from unwarranted charges by either the Administration or a member of the campus community against a faculty member. For this reason, it is important that the task force include a member of the Committee on Academic Freedom.

This task force should also consider whether UCLA continues to need a Charges Committee or whether its responsibilities can be incorporated elsewhere.

If the Charges committee were eliminated from the Senate judicial process, its activities would need to be taken on by another committee, most likely a subcommittee of P&T, as is the practice at some of the other UC campuses. Possible advantages to this approach are a more streamlined and transparent judicial process involving only two rather than three committees (in addition to administration) and presumably a greater ability to share the results of any investigation, leading to less duplication of effort. One potential disadvantage to this approach is that either the workload of the original P&T members would be significantly increased, or else the P&T membership would need to be increased or make better use of non-P&T members in actual hearings as allowed in the by-laws in order to have the subcommittee members be different from the members attending the hearings for cases that proceed to formal legal proceedings. Using the first approach, fewer committee members would be independently evaluating each case, as the same P&T members would be conducting the initial investigation of probable cause in addition to serving at any subsequent formal hearing. Whether having fewer faculty members ultimately reviewing each case would be more or less protective of grievants and accused faculty members is unclear a priori, remaining an empirical question.

Another consideration is that the Charges committee is currently used as a “training” experience for members who go onto P&T or the Grievance Advisory Committee (GAC). If the Charges committee were eliminated, the Senate might wish to consider whether to require
participation on the P&T subcommittee assessing probable cause prior to allowing the member to serve as a full-fledged P&T member.

Overall, there seem to be no strong reasons why Charges should not be subsumed into another Academic Senate committee. Nonetheless, it seems unlikely that its elimination would prove to be either a straightforward or major remedy to the limitations of the Senate judicial process in addressing racial and ethnic discrimination on campus. This is especially true as there is reason to believe that relatively few bias and discrimination cases ever result in a formal charge. It is important to note that cases involving bias in the academic promotion process (e.g., a faculty member of color being turned down for tenure because s/he was unfairly evaluated) already bypass Charges and are brought directly to the P&T. Therefore the number of bias cases affected by such a change to the Senate judicial process would likely be quite small. On the other hand, affected cases would include charges brought by students and staff as well as faculty members, for example, allegations such as a hostile climate created by a faculty member making inappropriate comments, or unfair grading based on a student’s ethnicity.