

October 20, 2008

Debra Geller, Ed.D.
CAO, Student & Campus Life, and
Executive Director, Community Standards

In RE: Proposed Involuntary Psychiatric Withdrawal Policy

Dear Dr. Geller,

Thank you for the opportunity to review and opine upon the draft proposed Involuntary Psychiatric Withdrawal Policy. Upon receipt, I requested that the Graduate and Undergraduate Councils review and opine upon the policy, as well as the Executive Board. The Graduate Council's response is attached and was endorsed by the Executive Board, which speaks for the Senate on such matters.

While the Academic Senate appreciates the efforts of you and those throughout the University of California to craft this policy, there is a strong consensus that the policy is in need of extensive revision before it can be implemented. I am enclosing the responses from the Graduate and Undergraduate Councils, which will serve to further deepen and expand upon the suggestions for revision that I shall enumerate here.

1. Policy title. The term 'psychiatric' is a medical term that implies diagnosis. The Dean of Students, Vice Chancellor for Student Affairs, or other designated administrator, in all likelihood, will not be qualified to offer a diagnosis. Moreover, as the comment in the draft indicates, "behavior is the issue, not diagnosis." The title of the document should be revised accordingly.
2. Appropriate administrative official. The Academic Senate is concerned that too much authority is vested in a single administrator. While it is understood that the timeliness of the decision to involuntarily withdraw a student may be a factor, the Senate believes that provisions nevertheless should be provided to allow for the administrative official to seek and receive consultation. Such consultation could take place in through an ad hoc committee, with at least one member being a medical doctor or psychologist.
3. Ongoing mental health services. The Senate is also concerned that the policy would simply remove a student from UCLA without providing appropriate mental health services.
4. Graduate Students. The policy appears to have been drafted with an undergraduate student body in mind (see GC's response). How might the policy be complicated, for example, by application to a graduate student who is also employed by the UC and subject to collective bargaining agreements?

Thank you for the opportunity to review and opine upon this important policy. The Senate looks forward to reviewing it again, upon further revision.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael L. Goldstein". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Michael Goldstein
UCLA Academic Senate Chair

Cc: Jaime R. Balboa, Ph.D., Academic Senate CAO

Encs.

TO: Michael Goldstein, Chair, Academic Senate

FROM: Jan Reiff, Chair, Graduate Council



DATE: October 1, 2008

RE: Proposed Involuntary Psychiatric Withdrawal Policy

Unfortunately, this complex document and its supporting materials were forwarded to Graduate Council at the worst possible time to do justice to its issues. Last year's Council had only ten minutes to make general observations at the last – extra – meeting of the 2007-08 school year. To get any comments to you in time, this document had to be completed before the new Council had an opportunity to consider it. For that reason, this response can only point to general concerns.

The Council appreciates the efforts made to develop a policy that protects both the individual student and the campus community as a whole. It also appreciates the careful readings of that document provided by individuals on the different campuses that share common concerns. Those concerns deserve careful scrutiny before a final version of this document is passed. In particular, we believe careful consideration needs to be paid to the following:

- The student's behavior should be the trigger for action, not some official's belief that there is an underlying mental disorder. The suggestion offered to invert the language in the Introduction to "This involuntary Psychiatric Withdrawal Policy shall apply when an Appropriate Administrative Official reasonably believes that the Student's behavior poses a significant risk to oneself or others, threatens or endangers University property, or disrupts the stability and continuance of normal University operations or functions and there is a reason to believe that the Student may be suffering from a mental disorder that interferes with his or her ability to engage in appropriate behavior or comprehend the significant risk the behavior poses."
- The inclusion of substance abuse and eating disorders in the list of trigger conditions for risk behaviors (even the wording is unclear in the document) seems to walk a very fine and somewhat treacherous line. As the mixed responses suggest, these need further discussion.
- The attempt to define key concepts is greatly appreciated. However, there are sections of the document that remain quite unclear. It is not clear, for example, how a temporary withdrawal can become a permanent withdrawal. It is not clear whether the request to schedule an Independent Medical Evaluation within five days (#2) means making an appointment or having an evaluation. (The issue of request vs. require in that same section also needs clarification.) What is meant by Mediation in point #3? Between which parties and to what end? In general, we second the many points already made about the lack of clarity in this document.

Members also suggested circumstances that do not seem to be adequately covered by this document. One, based on an actual experience at another institution, involved a student whose

behavior on a public street following a class triggered an involuntary hospitalization. Released after the fixed period as not being a threat to herself or others, would that student still be subject to the policies outlined in this document or would the independent evaluation already provided exclude further action? Another involved a situation in which the student brought a mental health professional to the preliminary hearing. Would that be allowed? Lawyers are excluded but qualified mental health professionals seem to be allowed as advisors.

Finally, there were issues that seem not to be addressed at all that seemed important to consider:

- How does this policy apply to graduate students who are also employees of the University? Are there any elements of this proposal that are inconsistent with protections afforded as employees? If so, which set of policies should be employed?
- What does the student's transcript say when he or she is involuntarily withdrawn? Are there any implications for the student and university based on that wording?
- What provisions exist for protecting the student if the university was just wrong? It seems possible that a student, confronted with the elaborate schedule meant to respect his or her rights or an interim emergency withdrawal, could simply seek one or more independent evaluations that suggest there are no psychological reasons for that withdrawal. In that instance, and especially if the decision was made based on an assumption of harm to the student, does the university have any obligations to help the student finish courses, find housing, or any other steps that make their return as smooth as possible and that diminishes any possible harm to the student and her or his UC career that might have arisen from the process?

The thoughtful comments offered earlier by the campuses and individuals on those campuses as well as from UC Senate committees suggest that this document still has a way to go before it becomes policy.

cc: Jaime Balboa, CAO, Academic Senate
Kyle Cunningham, Analyst, Graduate Council

October 17, 2008

To: Michael Goldstein, Chair
UCLA Academic Senate

From: Dorothy Wiley, Chair
Undergraduate Council



RE: PROPOSED INVOLUNTARY PSYCHIATRIC WITHDRAWAL POLICY

This is a complex, lengthy policy that attempts to balance community concerns for public safety with University responsibilities and individual rights of students.

Generally, the policy aims to reconcile situations where students are resistant to evaluation and treatment recommendations. We recognize that finding ways to encourage good decision making and healthy choices for individuals at high-risk for psychopathology is often difficult. Also, it is often difficult and sometimes distressing to reconcile that in a free society, individuals have the right to make decisions that are counterproductive to their health. This may be especially true when mental illness is the outcome. Thus, we are suggesting that the following issues be addressed:

1. The rationale for developing an additional policy for student discipline is unclear. Augmenting existing policies may be more effective than a proliferation of policies addressing the occurrence of rare events such as violent outbursts by students.
2. The proposed review process seems ill-conceived. Although administrators will likely execute decisions to discharge students displaying severely aggressive behavior, it may be more constructive to develop a protocol where review panels would evaluate each case and make recommendations. These panels may be most effective if they mirror the constituencies of institutionally-based ethics panels, e.g., representatives from religious studies, law, medicine, nursing, psychology, and other social sciences.
3. It may be both difficult and perilous for administrative officials to diagnose “mental disorders” if they are not prepared or licensed for this activity. The diagnosis of mental illness conditions has been both imprecise and sometimes capricious, historically.
4. The behaviors that constitute threats and endangerment to oneself, others, and University property are poorly defined in the policy. Although we can all recognize high-risk violent behavior in retrospect, it is very difficult to predict true threat in a prospective fashion.
5. Behaviors targeted reflect different motivations and often different outcomes. For example, risk for suicide often manifests differently than behaviors that risk the lives of others. Thus, it is difficult to imagine how being a danger to oneself is alone as risky as a potential act of homicide, requiring interventions greater than already provided for in policies related to medical leaves of absence from the University.

6. The policy does not inadequately address a need to educate and advise providers that may treat at-risk students. For example, there are clear indications from tort law that confidentiality must be breached when clients identify a target individual for violence, i.e., 17 Cal. 3d 425, 551 P.2d 334, 131 Cal. Rptr. 14 (Cal. 1976). Although the *Tarasoff* decision specifically pertains to risks to a clearly identified individual, it may be important for the University to obtain a legal opinion on the applicability of this principal to groups, especially where the group is described but difficult to identify individually, e.g., UCLA dormitory residents. If the principle can be extended to identified groups, it would seem worthwhile that the University educate providers and faculty accordingly.
7. It is interesting that a physician, generally, is designated as an expert. It may be more constructive to limit the expert to a clinician with appropriate education and training in mental health and illness. All MDs are not necessarily qualified to diagnose complex mental illnesses by virtue of their licensure, e.g., family practice, gynecology.
8. There is some potential for violation of HIPAA provisions. Students can refuse to share the evaluative data from charts and tests with the University, even if the University orders the testing. It is unclear that the University would have legal grounds to proceed if a student refuses to release records. There seems to be a true conflict of interest using this scenario. Also, would a student who refuses be guilty by default?

Again, there does not seem to be any indication that the proposed policy can better resolve these dilemmas than those in place where there is concern that mentally-ill students will endanger others. This policy appears to be both a potential litigious and media nightmare for the University.

cc: Jaime Balboa, CAO, Academic Senate
Judith Lacertosa, Principal Policy Analyst, Academic Senate