November 20, 2009

Debra Geller, Ed.D.
Chief Administrative Officer, Student and Campus Life
Executive Director, University Standards

In Re: Proposed Revisions to the Student Code of Conduct

Dear Dr. Geller,

Thank you for the opportunity to review and opine upon the proposed revisions to the Student Code of Conduct. Upon receipt of the proposal, I requested review by the Graduate Council (GC), the Undergraduate Council (UgC), the Grievance Advisory Council (GAC), and the Executive Board. I am attaching the responses from the GC, UgC, and GAC for your information. Ultimately, it is the Executive Board that speaks for the Academic Senate.

Before summarizing our response, I want to thank you for taking the time to discuss the proposed changes with the Executive Board. We found the discussion very helpful. Your informative and candid responses to questions from members of the Board addressed most their concerns. The other bodies reviewing the proposed changes did not have that information in hand in formulating their responses, and that is reflected in their memos.

Generally speaking, the committees looked favorably on the proposed revisions. The Dean of Students has the support of the Senate to move forward with the proposed changes. At the same time, there were a few concerns that I would like to bring to your attention, recommending that they be addressed in the document that moves forward.

1. Regarding the definition of a student as one who has filed a Statement of Intent to Register: both the GC and UgC itemized concerns, although from different perspectives (see attached).

2. Although the GC expressed concerns regarding the legality of excluding legal representation from student conduct hearings, the GAC was unanimously opposed to the notion (see attached). The Executive Board, however, was persuaded by the Dean of Student’s goal to make the proceedings less adversarial (legalistic) and more consistent with a Student Development model, and expressed no reservations to this aspect of the proposal. Because others may share the GAC’s concerns, it might be helpful to explain within the Code the rationale, both educational and legal, for excluding attorneys from this type of proceeding.

3. Although the Executive Board was sympathetic to the rationale of the Dean of Students for removing reference to sex with minors as a code violation, the UgC
urged strongly that the language pertaining to sexual offenses regarding minors either remain as is, or that new language be adopted to protect minor students. It may be sufficient to clarify that underage students are indeed protected under the revised sexual assault policy, even though the University will no longer police consensual relations between undergraduates who happen to be under age.

4. The GC noted a number nonsequiturs that should be edited for clarity. Specifically, it noted that the headers of sections 102.05, 102.17, 102.18, 102.20, 102.23c, and 102.24 are inconsistent with the primary header “Types of Misconduct.” For example, 102.05 “Computers” is not a type of misconduct. The addition of “misuse” or some other appropriate verb would clarify this section (and the others identified above) under the header much better.

Please do not hesitate to contact me if I can be of further assistance.

Sincerely,

Robin L. Garrell
Chair, Academic Senate
November 6, 2009

Robin Garrell, Chair
Academic Senate

RE: Revisions to the Student Code of Conduct

Dear Robin,

As requested, the Graduate Council reviewed the proposed revisions to the UCLA Student Code of Conduct at its meeting of October 30th. Overall the Council endorsed the revisions, but it expressed reservations about a couple of items, including the definition of a student and the proposed exclusion of attorneys from participating in the student conduct hearings.

With respect to Section I.A.1 “Definition of a Student,” members questioned the appropriateness of defining one as a student at the point when they file the statement of intent to register (S.I.R.). At the graduate level, individuals are considered to be students until they matriculate, as defined by the Family Educational Rights and Privacy Act (FERPA). The Council understands the possible need for the Dean of Students Office to broaden its definition to include undergraduate students participating in summer orientations, but at the same time, the Council cautions the Dean of Students against inadvertently including more individuals than the Dean of Students is considering. Additionally, within Section I.A.1, a Graduate Division representative serving as a guest on the Council informed us that the added provision of the Code of Conduct applying to “applicants who become students, for offenses committed as part of the application process,” adds an additional layer of authority since the Graduate Division also serves in official capacity to investigate alleged offenses of applicants for graduate study. No objections were raised concerning this point; rather it was suggested that the Dean of Students be reminded of this fact and of the shared responsibility that this proposed revision would entail.

Members also raised some concerns about the proposed revision to Section III.J.9 “Responsibility for Presentation of Cases.” Several members questioned whether or not it was legal for UCLA to exclude the participation of attorneys in academic misconduct student conduct hearings. The Graduate Council suggests submitting the revision of this specific provision to Campus Counsel for review, if it hasn’t already done so, to ascertain whether or not the revision is constitutionally legal.

Last the Council, in the interest of making the document more precise, suggests rectifying headings that are non-sequiturs. Specifically, the headers of sections 102.05, 102.17, 102.18, 102.20, 102.23c, and 102.24 are inconsistent with the primary header “Types of Misconduct.” For example, 102.05 “Computers” is not a type of misconduct. The addition of “misuse” or some other appropriate verb would clarify this section (and the others identified above) under the header much better.

Thank you for the opportunity to comment on these proposed revisions. If you have any questions, please feel free to contact me or the Graduate Council’s analyst, Kyle Cunningham, at extension 51162.

Sincerely,

Steven Nelson
Chair, Graduate Council

cc: Jaime Balboa, CAO, Academic Senate
Kyle Cunningham, Graduate Council Analyst, Academic Senate
Dorothy Ayer, Executive Assistant, Academic Senate
November 12, 2009

To: Robin Garrell, Chair
   Academic Senate

From: Joseph B. Watson, Chair
   Undergraduate Council

Re: Proposed Revisions to the UCLA Student Conduct Code

I am writing to report that at its November 6, 2009 meeting, the Undergraduate Council (UgC) thoughtfully discussed the proposed revisions to the Student Code of Conduct. The Council noted that the most significant proposed changes to the Code are the prohibition of lawyers in academic misconduct hearings, and the deletion of the non-forcible sexual misconduct (consensual sex with a minor). The Council endorsed the revised code unanimously with the concerns and revisions requested below with 13 votes in favor, 0 opposed, and 0 abstentions. The student vote was 3 in favor, 0 opposed, and 0 abstentions.

**Representation in Misconduct Hearings:** The Council endorsed the UCLA Student Conduct Code with concerns and revisions requested with the clarification and understanding that the prohibition of lawyers in academic misconduct hearings does not preclude representation to the parties involved. Individuals are entitled to representation, and judicial advocates are involved in the process and witnesses may be called.

**Section I: DEFINITIONS:**

- Council members were concerned that it is not made clear enough that the newly added text under the heading, “The UCLA Student Conduct Code also applies to” pertains to students who have filed a Statement of Intent to Register and have not graduated. Although this is stated in the first section: Section A. Student, which provides the definition, “the term “student” means an individual for whom the University maintains student records, and who….has filed a Statement of Intent to Register and has not graduated...” Members felt the points under this new heading are important and should be flagged further to clarify to whom they apply.

**Section II: STUDENT CONDUCT POLICIES:** A. Types of Misconduct, 102.08:

- The proposed elimination of the text below caused alarm for members. In removing the language, the implication is that students are 17 years or older, removes the protection of minor students and assumes sex would be consensual. However, there have been cases where students enrolled in regular session at UCLA are age 12-14 years, and high school students often enroll during Summers Sessions. These students would be unprotected and the implications extremely serious:

  *Sex offenses include, but are not limited to, sexual assault upon a child, incest, and consensual sexual intercourse with an individual under the age of consent (18 years of age in California).*
The UgC urges strongly that either this language remain or new language be adopted to protect our minor students. It is a small population, but it is imperative that they be acknowledged and protected while in our care.

If you have any questions or need additional information, please feel free to contact me (x 57587; jwatson@mednet.ucla.edu) or Judith Lacertosa, UgC Principal Policy Analyst (x51194; jlacertosa@senate.ucla.edu).

cc: Jaime Balboa, CAO, Academic Senate
    Judith Lacertosa, Principal Policy Analyst, Undergraduate Council
    Dorothy Ayer, Assistant to Senate Leadership & CAO
Discussion of Proposed Changes to Student Conduct Code

Proposal #1 The committee had no major issues with this revision.
Proposal #2 There was some concern that this revision could be interpreted in an overly broad fashion. Specifically, assuring that the balance between personal freedom and protection of students (even from themselves) was maintained. The committee did accept this revision.
Proposal #3 The committee members were strongly in favor of this.
Proposal #4 The same concerns were raised as in revision #2.
Proposal #5 No concerns were raised.
Proposal #6 The same concerns about personal freedom/student safety balance as in #2.
Proposal #7 Same as #6
Proposal #8 No concerns were raised.
Proposal #9 No concerns were raised.
Proposal #10 It was not clear that the changes met the stated goal of clarifying that no inference can be made from a student’s decision not to participate in a hearing.
Proposal #11 No concerns were raised.
Proposal #12 No concerns were raised.
Proposal #13 No concerns were raised.
Proposal #14 No concerns were raised.
Proposal #15 No concerns were raised.
Proposal #16 The committee was unanimously opposed to this revision. It was not clear to the committee why a student could not (at the student’s own expense) have counsel from an attorney. Academic dishonesty is a serious charge, with significant consequences. It was felt that students should be afforded all appropriate opportunities to defend themselves.
Proposal #17 The committee was again unanimously opposed to this revision.
Proposal #18 No concerns were raised.
Proposal #19 No concerns were raised.