

The Regents of the University of California

COMPLIANCE AND AUDIT COMMITTEE

May 15, 2019

The Compliance and Audit Committee met on the above date at the UCSF–Mission Bay Conference Center, San Francisco.

Members Present: Regents Anguiano, Elliott, Estolano, Park, Pérez, and Zettel; Ex officio member Kieffer; Advisory members May and Weddle; Chancellors Block, Gillman, Khosla, and Leland; Staff Advisor Main

In attendance: Regents Kounalakis, Leib, Napolitano, Sherman, and Sures, Regent-designate Um, Faculty Representative Bhavnani, Student Advisor Huang, Secretary and Chief of Staff Shaw, General Counsel Robinson, Chief Compliance and Audit Officer Bustamante, Provost Brown, Executive Vice President and Chief Operating Officer Nava, Executive Vice President Stobo, Chancellors Blumenthal and Christ, and Recording Secretary Johns

The meeting convened at 2:10 p.m. with Committee Chair Elliott presiding.

1. APPROVAL OF MINUTES OF PREVIOUS MEETING

Upon motion duly made and seconded, the minutes of the meeting of March 13, 2019 were approved.

2. INTERNAL AUDIT ACTIVITIES REPORT

[Background material was provided to Regents in advance of the meeting, and a copy is on file in the Office of the Secretary and Chief of Staff.]

Systemwide Deputy Audit Officer Matthew Hicks provided a brief update on two systemwide audits currently in progress. The first was an audit of systemwide admissions. The audit was initiated the prior month in response to the recent nationwide college admissions scandal and the revelation of attempts to gain fraudulent admission to several universities across the U.S., including UC. There were allegations of bribery of college officials and falsification of entrance examination scores. The audit was being conducted in coordination with campus Internal Audit departments. Its purpose was to assess internal controls over admissions and identify potential vulnerabilities. The audit was structured in two phases. The first phase, currently under way, involved process reviews of the admissions process at each campus, including elements that feed into the admissions process, such as recommendations for admission. There would be processes to monitor student-athlete participation in the athletic programs for which these students are recruited. Internal Audit would review the controls in place, identify any gaps, and make a series of recommendations which would be converted into specific Management Corrective Actions (MCAs) with target dates tracked to completion. Mr. Hicks anticipated that the first phase

of the audit would be completed in June with the delivery of a formal report. The second phase would involve detailed testing of controls and actual review of admissions files to ensure that supporting documentation was in place and that approvals were documented. The results of both phases would be shared with the Committee.

The second systemwide audit under way was the annual audit of the Fair Wage/Fair Work Plan, established in 2015, which establishes a minimum wage for all UC employees working at least 20 hours a week as well as employees of UC suppliers performing work at UC locations. The annual audit focuses on processes to ensure that suppliers are complying with Plan requirements, including an annual independent supplier audit for those suppliers that provide in excess of \$100,000 in services a year. In prior year audits, Internal Audit had found deficiencies in processes in place to monitor suppliers' compliance with Plan requirements and continued to identify low rates of suppliers' compliance. Management at the campuses had implemented corrective actions to address process deficiencies. At the systemwide level, Procurement Services at the Office of the President (UCOP) has taken action to facilitate compliance by making modifications to streamline the annual supplier audit certification process and identifying a list of audit firms that are willing and able to perform the annual supplier audit. Campuses reported that suppliers were having difficulties finding such firms.

Regent Sures asked how far back in time the audit of admissions practices would extend. Mr. Hicks responded that the current phase of the audit was focused on process, not examining samples of admissions files. The scope and timeframe of the audit had not yet been determined but would be based on information gained during the first phase.

Regent Sures asked how widespread this instance of admission fraud was. Chief Compliance and Audit Officer Bustamante responded that current indications suggested that fraud was not widespread at UC. He noted that the University was following both an investigative track and an audit track in this matter. The audit emphasized the question of how to shore up and strengthen the University's controls so that incidents like this are less likely to occur in the future.

Regent Sures asked if this review and strengthening of controls would be carried out at UCOP or on a campus-by-campus basis. Mr. Bustamante responded that both UCOP and the campuses would be involved. All the campus audit directors report through Mr. Hicks to Mr. Bustamante. UCOP was coordinating the review while being mindful that different campuses might present different circumstances.

Regent Morimoto thanked the Internal Audit team for carrying out this systemwide audit on admissions.

Regent Zettel referred to the Fair Wage/Fair Work Plan and information in the background material according to which, of the 43 MCAs identified in the prior year's audit, 40 had been completed. She asked if Mr. Hicks expected to find progress in the current year. It was somewhat disappointing that there was still a lack of compliance, given that the Plan was implemented in 2015. Mr. Hicks responded that he did not wish to speculate on

progress in compliance rates. The MCAs had been largely implemented, with a few exceptions, and this was a positive sign. He anticipated that there would be results from the process improvements that had been made.

Regent Estolano asked if the University would track compliance rates in the Fair Wage/Fair Work Plan. Mr. Hicks responded that Internal Audit was capturing these statistics as part of the audit and reporting them to Procurement Services at UCOP, which then discusses this information with the campuses. These data were being collected and disseminated.

Regent Estolano asked if procurement officers were expected to report on their own compliance rates. Mr. Hicks responded that he did not know what mechanisms procurement officers might have identified themselves. Regent Estolano emphasized that this was a critical issue. If the University instituted a Fair Wage/Fair Work Plan to ensure that it is paying living wages but did not verify that the Plan was being implemented, the Plan would be a dead letter. Ongoing monitoring of plans and policies like this one was important.

Committee Chair Elliott expressed agreement with Regent Estolano. He was proud of UC for implementing the Fair Wage/Fair Work Plan, but the compliance level revealed by the previous year's audit had been embarrassing. He hoped that this next year would bring improvements.

Mr. Hicks then turned to discussion of external audit activities. Earlier that week, the State Auditor had released updated assessments of UCOP's progress in implementing the State Auditor's recommendations from its 2017 audit of UCOP administrative expenditures, based on the most recent status update provided by UCOP to the State Auditor on April 25.

Associate Vice President Zoanne Nelson noted that the audit recommendations were organized in three categories, one of which was "Realign staffing costs." In UCOP's view, all of the 2019 recommendations in this category were complete. The State Auditor agreed, except for Recommendation 23, "Adjust salaries according to public and private sector comparison results." The State Auditor agreed with UCOP's methodology for including public sector data. Ms. Nelson recalled that UCOP had updated and moved the midpoint of its salary ranges by eight percent, based on market survey data. The State Auditor believed that UCOP should not have moved the salary ranges by eight percent.

Chair Kieffer observed that UCOP had accepted all the State Auditor's recommendations and was doing a good job of implementing them. He acknowledged that the State audit had helped to improve how the UCOP budget is presented. In this particular case, he felt that while it was important to have the State Auditor's viewpoint, it was the University's prerogative to choose which actions to take.

Committee Chair Elliott stated that it was not surprising that the State Auditor objected to this. The University had used this opportunity to carry out its own assessment. Chair Kieffer stressed that the University looked at market data to determine the appropriate midpoint. Ms. Nelson explained that this action was based on a study of market surveys to

determine where salary range midpoints should be. UCOP does this every year or two, but had held off for the last few years so that it could go through the exercise of incorporating public sector data. UCOP followed industry best practices in its methodology, and this was validated by Sullivan Cotter and Sjoberg Evashenk Consulting.

Committee Chair Elliott stated that the result was not what the State Auditor had expected.

Regent Park thanked Ms. Nelson and her team for their sustained attention to this effort. Ms. Nelson stressed that her team had worked hard over the last few years to ensure that it was using best practice methodologies in this work. There were more than 700 positions for which comparators had to be identified and public sector data had to be included.

Ms. Nelson then discussed the second category of recommendations, "Evaluate systemwide initiatives." The State Auditor agreed that UCOP had completed all recommendations in this category for 2018 and 2019. In the third category, "Improve budget," Ms. Nelson drew attention to Recommendation 5 for 2018 and Recommendation 22 for 2019, both considered by the State Auditor to be only partially implemented. The State Auditor continued to have an objection to the fact that UCOP presents its budget to the Regents first, at the May meeting; the State Auditor would prefer that this budget be available before April 25. In response to a question by Committee Chair Elliott, Ms. Nelson clarified that Recommendation 5 for 2018 and Recommendation 22 for 2019 were essentially identical, concerning the timing of the UCOP budget presentation. In response to a question by Chancellor Leland, Ms. Leland explained that the State Auditor would prefer that the budget be available earlier so that the California Department of Finance, legislators, and others have this information as they develop the State budget. UCOP does not present its budget publicly until it has been presented to the Regents. In the current year, the budget was publicly available on May 6, within two weeks of the April 25 deadline.

3. **UPDATE ON ACADEMIC SENATE RESPONSE TO THE STATE AUDITOR'S REPORT ON SEXUAL HARASSMENT CASES AT THE UNIVERSITY OF CALIFORNIA**

[Background material was provided to Regents in advance of the meeting, and a copy is on file in the Office of the Secretary and Chief of Staff.]

Faculty Representative May recalled that, in June 2018, Chair Kieffer wrote a letter to the Academic Senate on behalf of the Board, communicating recommendations made by the California State Auditor in its report "The University of California: It Must Take Additional Steps to Address Long-Standing Issues With Its Response to Sexual Harassment Complaints." The State Auditor recommended that the Academic Senate further define its bylaws to meet prescribed timelines for the commencement of and reporting from Academic Senate Committee on Privilege and Tenure hearings of such cases. Mr. May reported that the Academic Senate had complied with these recommendations and would implement them by the July 2019 deadline set by the State Auditor and the Regents.

Upon receipt of Chair Kieffer's letter, the Academic Senate established an ad hoc working group to consider the best way to proceed in implementing the recommendations. The working group outlined changes to Academic Senate Bylaw 336 (Privilege and Tenure: Divisional Committees – Disciplinary Cases), which were then developed into a draft revised Bylaw by the Academic Senate's University Committee on Privilege and Tenure. The draft revised Bylaw was subject to review by the divisions and committees of the Academic Senate. Upon consideration of the comments of the reviewers, the revised Bylaw 336 was approved by the Academic Council at its March 2019 meeting and received final approval by the Assembly of the Academic Senate at its April 2019 meeting.

Mr. May drew attention to specific clauses of the revised Bylaw 336 that bring it into compliance with the State Auditor's recommendations. Paragraph E1 states that "The hearing shall begin no later than 60 calendar days from the date disciplinary charges are filed with the Committee on Privilege and Tenure." Paragraph E2 allows extension of this deadline for good cause, defined as material or unforeseen circumstances related to the complaint and sufficient to justify the extension sought. Paragraph F10 mandates that the Hearing Committee shall forward its recommendations to the Chancellor no more than 30 days after the conclusion of the hearing. In addition, there were various amendments to Bylaw 336 to accommodate these major changes to the hearing procedures. Mr. May noted that Bylaw 336 applies to all disciplinary issues arising from alleged violations of Academic Personnel Manual – 015, the Faculty Code of Conduct.

With these approved changes, the Academic Senate had fully complied with the recommendations of the State Auditor's report. A number of divisions of the Academic Senate expressed concerns about the practical implications of the revised Bylaw 336. Academic Senate committees were concerned that Privilege and Tenure disciplinary hearings be fair to all parties, that due process be respected in all phases of the procedure, and that there be no undue rush to judgment. In particular, faculty with experience of serving in disciplinary hearings were concerned that these revisions might compromise these goals by not providing sufficient time for parties to prepare for the hearing and that the timelines might make it difficult to find faculty to serve on hearing committees. Campuses were also concerned that there could be a substantial additional burden on divisional Academic Senate staff to manage hearings. In light of these and other related concerns, the University Committee on Privilege and Tenure would review the new procedures and report to the Academic Council no later than July 2020.

President Napolitano thanked faculty and the Academic Senate for making these necessary changes and completing this work.

Regent-designate Weddle asked Mr. May for his thoughts on how the University can be more proactive about preventing issues of sexual violence and sexual harassment. Mr. May responded that policy is only a small part of actions to be taken to ensure a positive environment for students, faculty, and staff. The Academic Senate is always working on these issues; this is an ongoing process. There are issues of training, awareness, and environment that require constant monitoring and that the University must constantly be trying to improve.

In response to a question by Regent Leib, Committee Chair Elliott and Mr. May clarified that the Bylaw revisions would go into effect on July 1, 2019. The Academic Senate would review the new procedures through July 2020 to determine if there were any unintended consequences. Committee Chair Elliott thanked the Academic Senate for completing this work within the suggested time frame.

The meeting adjourned at 2:40 p.m.

Attest:

Secretary and Chief of Staff