

April 6, 2020

TO: Dylan Rodriguez, Chair
Academic Senate

FROM: Philip Brisk, Chair 
BCOE Executive Committee

RE: Proposed New Presidential Policy on Gender Recognition and Lived Name

Dear Dylan,

The BCOE Executive Committee reviewed the Proposed New Presidential Policy on Gender Recognition and Lived Name.

While the Committee is supportive of the proposal in spirit, there is some concern over both the language of the policy itself and how the policy would be implemented.

The policy summary mandates that "The legal name of university students, employees, alumni and affiliates, if different than the individual's lived name, must be kept confidential and must not be published on documents or displayed in information systems that do not require a person's legal name." The term "documents" is rather vague. "Official documents" are readily understandable, but there are also numerous "informal documents" which could create significant complications in terms of how the policy could be implemented.

The policy does not prescribe a grievance process in the event that a legal name is either intentionally or unintentionally disclosed.

The policy does not clearly articulate responsibility and liability for policy violations. As an example, suppose that an instructor of a course reads aloud the names of the enrolled students in a course from a printed document, and that this document includes the legal name of a student who uses a lived name. Has the instructor violated the policy, and, if so, what is the consequence? Or does responsibility flow to the person who created the list (if done manually), the information technology system administrator(s), etc.?

The policy will also create an immense burden on any individual staff member who is tasked with altering a legal name to the lived name. Using a faculty member as an example, the official documents, such as relating to payroll and healthcare, are relatively straightforward. But the unofficial documents could become onerous, and almost impossible to track down. For example, there may be numerous old and stale webpages from years or decades past, within the faculty member's School or College that would need to be tracked down. Moreover, there may be web-related content hosted by other Schools or Colleges, which the staff member cannot edit directly.

Going further, what about official technical reports that were filed with the university, possibly decades ago? What about M.S. and Ph.D. theses and books that the faculty member authored, which are now residing in one or more libraries across multiple UC campuses? Does the policy extend to microfilm? Etc. Realistically, the above examples are just the tip of the iceberg in terms of documents that exist for an individual, and the policy needs to consider what documents can and cannot feasibly be updated.

In summary, when scrutinized, the policy seems impossible to implement unless its scope is narrowed to what is both reasonable and feasible.

The University's intent to fully implement the policy by UC campuses and locations by July 1, 2021 does not seem even remotely realistic.

We note that in the appendix provided, there is a paragraph with language that is not consistent with the language in the summary. The language in the appendix raises less concern.

