FACULTY WELFARE

March 31, 2023

To: Sang-Hee Lee, Chair
    Riverside Division

From: Robert Clare, Chair
        Committee on Faculty Welfare

RE: [Systemwide Review] Proposed Presidential Policy – Anti-Discrimination

At our March 14, 2023 meeting, the Committee on Faculty Welfare (FW) discussed the Proposed Presidential Policy on Anti-Discrimination. FW appreciates the opportunity to evaluate this systemwide review item and commends the University of California’s commitment to create and maintain a healthy working and learning environment free of discrimination, harassment, and retaliation.

The following captures our questions and concerns with respect to the proposed policy:

- In V.A.3 ("Initial Assessment of a Report / Immediate Health and Safety") and V.A.4 ("Closure after Initial Assessment"), there is no mention of outreach to the Respondent. There are, however, steps spelled out to address outreach to and consultation with the Complainant. In general, these portions of the proposed policy seem to portray a Respondent as guilty until proven innocent. Furthermore, throughout the reporting/response/investigative phases, confidentiality is often weaponized in favor of the Complainant and at the detriment of the Respondent. There appears to be a multitude of inequitable trends catering to the Complainant with these kinds of policies, to include the UC Policy on Discrimination, Harassment, and Affirmative Action in the Workplace and UC Abusive Conduct Policy.

- Although we understand this proposed policy is intended to differ from the UC Abusive Conduct Policy (by addressing Prohibited Conduct related to state and federally defined Protected Categories) and will likely replace the UC Policy on Discrimination, Harassment, and Affirmative Action in the Workplace, what remains unclear is the full extent of similarities and differences between this proposed policy and the other UC policies that aim to combat discrimination, harassment, and retaliation. How do all these policies overlap? How do they differ?

If UC has already indicated that yet another policy will be created to fill the gap in coverage related to Affirmative Action and pay transparency not addressed in this proposed policy, one wonders whether the proliferation (instead of consolidation) of policies in this regard is optimal.
In IV.F (“Noncompliance with the Policy”), it states that this proposed policy “does not supplant disciplinary processes described in the APM or in the Academic Senate’s Bylaws or regulations.” As this policy also pertains to faculty: if it does not supplant Academic Personnel Manual (APM)-015 (*The Faculty Code of Conduct*), nor supersede the Academic Senate’s formal charges and/or privilege and tenure adjudication processes, it should be made clear whether or not faculty are protected from a form of double jeopardy, i.e. are faculty protected in the Academic Senate realm from facing investigation and/or punishment for the same alleged offense, after it has been determined by the Local Implementation Officer that there was no discrimination/misconduct?