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Office of the Academic Senate
SANTA CRUZ DIVISION
125 CLARK KERR HALL
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December 6, 2023

JAMES STEINTRAGER
Chair, Academic Council

**Re: Systemwide Review of Presidential Policy – University of California – Policy on
Vaccination Programs**

Dear James,

The Santa Cruz Division of the Academic Senate has completed its review of the proposed revisions to the Presidential Policy on Vaccination Programs with the Committees on Faculty Welfare (CFW) and Privilege and Tenure (CPT) providing responses.

CFW raised concerns about compensation for time off taken by employees who have adverse reactions to a vaccine. The committee noted there is nothing in the policy that provides for those who do not have accrued vacation/paid time off/sick leave if time away from work is required due to an adverse reaction to a University required vaccine. In order to avoid placing the burden of recovery for a UC mandate on the individual, CFW recommends that the policy explicitly state that all employees must be provided with time to recover from potential side effects associated with receiving required vaccines. This could be enacted similarly to the temporary New Emergency Paid Sick Leave (EPSL22) for COVID-19 relief program that was made available to employees and expired in September 2022.

CPT commented on the relationship between Covered Individuals¹ and the conditions of physical presence related to their participation in mandatory Vaccination Programs. The committee noted the language in the proposed policy that states:

As a condition of Physical Presence at a Location or in a University Program, all Covered Individuals must Participate in any applicable Vaccination Program as described in a Program Attachment by—

¹ A Covered Individual includes anyone designated as Personnel or Students under this policy who Physically Access a University Facility or Program in connection with their employment, appointment, or education/training. A person exclusively accessing a Healthcare Location as a patient, or an art, athletics, entertainment, or other publicly accessible venue at a Location as a member of the public, is not a Covered Individual.

no later than the Compliance Date—providing proof that they are Up-To-Date with Vaccines or submitting a request for Exception in a Mandate Program or properly declining vaccination in an Opt-Out Program.

And:

Up-To-Date: A person is Up-To-Date when they have received all doses of a Vaccine as recommended by the CDC and CDPH. A person need not obtain doses that are authorized but not explicitly recommended by CDC and CDPH in order to be considered Up-To-Date.

The issue CPT takes with these two provisions is the expectations that the latter places on employees as the result of their being covered by the former. Faculty appear to be expected to hunt through Centers for Disease Control (CDC) and California Department of Public Health (CDPH) recommendations to determine if they are, in fact, up to date. In many cases, an employee may be required to be physically present and this may present a potential for them to be barred from campus or disciplined should they inadvertently access the wrong information. It seems that in the case of a mandatory program, the burden to provide up to date information should be on the one mandating the requirement, the University of California, not on those who are mandated to comply.

Similarly, in the FAQs,² one who is authorized to be on campus may face similar disciplinary action if for example, they are on sabbatical and authorized to be on campus but choose delay their inoculation until they return. As CPT comments “The proper penalty for a failure to comply with the policy is to be barred from being physically present at a University location or program. While this may result in disciplinary action as a result of non-performance of assigned duties, the disciplinary action cannot be a consequence of the failure to comply itself.”

Though not specifically addressed by CPT, it may be prudent for the policy to discern between those who are *required* to be physically present (essential workers) and those who are *authorized* to be physically present, the latter suggesting that there is a choice to be made on the part of the employee. This could be remedied by providing a definition for an *authorized employee* in the definitions section.

CPT observed that the definition of Up To Date is inconsistent with the policy,³ which defines being Up-To-Date with references to vaccines described in program attachments. These references should be a part of the definition. As well, the Vaccination Program should also be defined with reference to program attachments.

² **I am fully remote. Am I a Covered Individual?** You are a Covered Individual at the time you are first Physically Present at a University Location or Program other than as a member of the public (or as a Covered Non-Affiliate). Your Location may also treat you as a Covered Individual if you are authorized to be Physically Present in connection with your employment, appointment, or education or training program.

³ See III.A.2.a.”Mandate Programs. Covered Individuals must be Up-To-Date on mandated Vaccines or timely secure a University-approved Exception. They also may be required to submit proof or certification of their vaccination or of a University-approved Exception to their Location Vaccine Authority (LVA), if and as specified in a Program Attachment. Proof or certification of vaccination may be subject to audit” and III.A.2.b. “Opt-Out Programs. Covered Individuals must be Up-To-Date on Vaccines or receive Vaccine Education and timely complete and submit a Vaccine Declination Statement to their LVA for each applicable Vaccine. They also may be required to submit proof or certification of their vaccination to their LVA, if and as specified in a Program Attachment. Proof or certification of vaccination may be subject to audit.

On behalf of the Santa Cruz Division, I thank you for the opportunity to comment on this policy.

Sincerely,

A handwritten signature in black ink that reads "P. Gallagher". The signature is written in a cursive style with a long horizontal stroke at the end.

Patty Gallagher, Chair
Academic Senate, Santa Cruz Division

encl: Senate Committee Responses (Bundled)

cc: Alexander Sher, Chair, Committee on Faculty Welfare
Onuttom Narayan, Chair, Committee on Privilege and Tenure
Matthew Mednick, Executive Director, Academic Senate

November 30, 2023

Patty Gallagher, Chair
Academic Senate

Re: Systemwide Review – UC Presidential Policy on Vaccination Programs

Dear Patty,

During its meeting of October 26, 2023, the Committee on Faculty Welfare (CFW) discussed the proposed revisions and finalization of Presidential Policy - UC Policy on Vaccination Programs. The committee noted that concerns raised during a previous review have not been addressed in this proposed policy revision and re-emphasize these concerns and proposed remedies here.

The new Policy states that it: “will require covered individuals to either be up-to-date on COVID-19 vaccination or to opt out of COVID-19 vaccination. In the event that applicable law or public health orders impose stricter vaccination requirements, such as for healthcare workers, the policy will continue to require compliance with those stricter requirements.” CFW reiterates concerns voiced in our letter of January 16, 2023,¹ that vaccination can cause workload disruption for faculty. The revised policy does not acknowledge that faculty may need to take paid time off in order to recover from potential side effects associated with required vaccinations (in particular COVID vaccinations, which have significant side effects, including, according to the CDC: pain, tenderness and swelling at the site of vaccine, tiredness, headache, muscle pain, chills, nausea, and fever). Only employees who accrue sick leave, vacation and/or Paid Time Off (PTO) are referenced in the draft document. This is therefore a concern for faculty who do not accrue sick leave or vacation, as they are thus ineligible for a time off for receiving vaccination.

As new COVID vaccines are made available, access to these vaccines has not been without problems, including in the roll out of the most recent boosters in fall of 2023: these included distribution issues, complications with insurance coverage (some local pharmacies do not take all UCSC insurance plans), and limited appointment availability. Such issues may be recurring as COVID-19 is now endemic and faculty may require yearly vaccines to combat the disease, similar to the seasonal influenza vaccination program. The result of such shortages and high demand at the time of new vaccine release is that faculty may have little choice in selecting appointment days or times, and may incur side effects during periods of their teaching and service duties. Access to new vaccines is especially critical for faculty who are engaged in in-person teaching of large courses (and thus open to greater chance of exposure from students, whom the policy now allows to opt-out of vaccination), faculty with young children at home, faculty with immuno-compromised members of their household, or faculty who are themselves immuno-compromised.

Reiterating our previous recommendation, in order to avoid placing the burden of recovery for a UC mandate on the individual, CFW recommends that the policy explicitly state that all employees

¹ CFW Chair Sher to Senate Chair Gallagher, 1/16/23, Re: Systemwide Review of Presidential Policy - UC Policy on Vaccination Programs

must be provided with time to recover from potential side effects associated with receiving required vaccines. This could be enacted similarly to the temporary New Emergency Paid Sick Leave (EPSL22) for COVID-19 relief program that was made available to employees and expired in September 2022. We recommend that a similar permanent program be put in place and noted in this policy, in order to ensure that employees are able to take paid leave to recover from symptoms related to a COVID-19 vaccine or vaccine booster.

Thank you for the opportunity to opine.

Sincerely,



Alexander Sher, Chair
Committee on Faculty Welfare

cc: Roger Schoenman, Chair, Committee on Academic Freedom
David Cuthbert, Chair, Committee on Educational Policy
Elisabeth Cameron, Chair, Committee on Teaching
Onuttom Narayan, Committee on Privilege and Tenure
Andy Fisher, Chair, Graduate Council

November 8, 2023

PATTY GALLAGHER, Chair
Academic Senate, Santa Cruz Division

**Re: Systemwide Review of Presidential Policy – University of California – Policy on
Vaccination Programs**

Dear Patty,

The Committee on Privilege and Tenure (CPT) has reviewed the revised policy. Our comments are similar to those about the previous version of the policy:

The policy requirement is stated as:

As a condition of Physical Presence at a Location or in a University Program, all Covered Individuals must Participate in any applicable Vaccination Program as described in a Program Attachment by—no later than the Compliance Date—providing proof that they are Up-To-Date with Vaccines or submitting a request for Exception in a Mandate Program or properly declining vaccination in an Opt-Out Program.

But in the Definitions section of the policy, there is a definition of Up-To-Date:

Up-To-Date: A person is Up-To-Date when they have received all doses of a Vaccine as recommended by the CDC and CDPH. A person need not obtain doses that are authorized but not explicitly recommended by CDC and CDPH in order to be considered Up-To-Date.

Employees cannot be expected to hunt through Centers for Disease Control (CDC) and California Department of Public Health (CDPH) recommendations. The definition is also inconsistent with the policy, which defines being Up-To-Date with references to vaccines described in program attachments. It should be fixed. For good measure, Vaccination Program should also be defined with reference to program attachments.

We also disagree with this part of the policy in the FAQ:

I am fully remote. Am I a Covered Individual?

You are a Covered Individual at the time you are first Physically Present at a University Location or Program other than as a member of the public (or as a Covered Non-Affiliate). Your Location may also treat you as a Covered Individual if you are authorized to be Physically Present in connection with your employment, appointment, or education or training program.

The proper penalty for a failure to comply with the policy is to be barred from being physically present at a University location or program. While this may *result* in disciplinary action as a

result of non-performance of assigned duties, the disciplinary action cannot be a consequence of the failure to comply itself. As an example, a faculty member may be on sabbatical for the year, with no physical presence required, and choose to defer vaccination until the end of the year because of some concerns. They should be able to do so without being subject to disciplinary action simply because they were permitted to be physically present on campus.

Sincerely,

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Onuttom Narayan, Chair

Committee on Privilege and Tenure

cc: Roger Schoenman, Chair, Committee on Academic Freedom (CAF)