



Jamienne Studley  
President, WSCUC  
1080 Marina Village Parkway, Suite 500  
Alameda, CA 94501  
Via Email

January 13, 2023

Dear Dr. Studley:

We are writing in response to a letter you received from the Chair of the University of Arizona Faculty about UArizona's application for accreditation by WSCUC and the forthcoming site visit. Although we send this letter in our roles as members of shared governance at UArizona, this letter, like the one that the Chair sent, has not been approved by all three elected faculty officers, has not been reviewed by the Senate Executive Committee, and has not been presented to the Faculty Senate. We hope that this letter can clarify and expand on points raised by the Chair. Please note that all the materials (except email documentation and Senate Executive Committee minutes) that we reference are publicly available and are accessible to all UArizona stakeholders. We also request, given the contents of this letter and to provide a balanced discussion, that Prof. Simmons be invited to join the Chair's small group meeting with the site team.<sup>1</sup>

By way of introduction—Prof. Tessa Dysart<sup>2</sup> serves as the elected Secretary of the Faculty. She has served on the Senate Executive Committee for two and a half years—first as the co-chair and then chair of the Academic Personnel Policy Committee (a standing Senate committee) and now as the Secretary. Prof. Caleb Simmons<sup>3</sup> serves as an elected representative on the Faculty Senate (eight years), Committee of Eleven (four years), and is in his first term on the Senate Executive Committee, Shared Governance Review Committee, and Strategic Planning and Budget Advisory Committee (SPBAC).

#### **I. Shared Governance in Arizona and at UArizona**

While Arizona Revised Statutes § 15-1601(B) does set out a role for elected faculty representatives to participate in university governance, that provision is expressly limited by and subject to “the responsibilities and powers of the board [of Regents] and the university presidents.” The statute

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<sup>1</sup> Prof. Dysart will be traveling to speak at two law schools the week of the site visit. She is available to meet remotely with you or the site team at another time if desired.

<sup>2</sup> Prof. Dysart is the Assistant Director of Legal Writing and a Clinical Professor of Law at the University of Arizona James E. Rogers College of Law. She holds continuing status at UArizona, which is a unique status under ABOR policy that provides tenure-like protection. She was promoted to the highest continuing status rank—similar to a full professor under the tenure system—in 2020.

<sup>3</sup> Prof. Caleb Simmons is a tenured Associate Professor in the Department of Religious Studies and Classics, Faculty Director of the Interdisciplinary Studies Program, and Executive Director of Arizona Online.



likewise describes this shared governance as a “responsibility” and states that it will be carried out by “elected faculty representatives” as a whole, not specifically the chair and their designees.

This statute has received little attention in Arizona state or federal courts. In 1976, an Arizona intermediate appellate court held that a similar predecessor statute<sup>4</sup> “clearly and simply recognizes governing authority in the Board of Regents and empowers that body to authorize a faculty voice in intra-collegiate government.”<sup>5</sup> This seems consistent with the language of the current statute, which requires faculty participation, but not final approval authority.

At UArizona, the Shared Governance Memorandum of Understanding, which was signed in May 2022 by President Robbins, Provost Folks, and the then-chair and vice-chair of the faculty, sets forth the definition and understanding of shared governance at our university. This Memorandum is attached to our letter as Exhibit A.

According to the Memorandum, shared governance is formally realized through the Faculty Senate and SPBAC,<sup>6</sup> although “[s]hared governance includes solicitation of input from all stakeholders on campus, including faculty, staff, students, and administrators—and honoring the expertise and lived experience of all of us.”<sup>7</sup> Finally, as the Memorandum makes clear, shared governance primarily involves consultation, not express approval, although the Memorandum sets out a process to be followed in cases of disagreement.<sup>8</sup> To put it simply, shared governance in most instances involves dialogue but not approval of outcome.

This background is essential to fully understand how shared governance has occurred in UArizona’s application for accreditation.

## **II. Shared Governance & the Accreditation Application**

The Chair cites the pending accreditation application as a “failure” in shared governance. For the reasons that we explain below, she is partially correct. However, in most instances, the accreditation application has represented shared governance at its finest.

Let us start with the failure—we and others have repeatedly asked the Chair to appoint elected faculty to serve on the working groups that are addressing the UAGC acquisition and related accreditation matters.<sup>9</sup> Not only has she refused to do so, but she has also not informed the Senate Executive Committee or the Faculty Senate about this request. Any failure in shared governance that she cites

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<sup>4</sup> Then ARS § 15-702(B) stated: “The faculties of the colleges shall have and exercise, in the government of their respective colleges, such powers and authority as the board of regents prescribes.” *Hattler v. Schaefer*, 545 P.2d 427, 429 (Ariz. Ct. App. 1976).

<sup>5</sup> *Id.*

<sup>6</sup> Principles for Shared Governance (April 14, 2022), see Exhibit A at 3.

<sup>7</sup> University of Arizona Rules of Engagement for Shared Governance (May 2022), see Exhibit A at 7.

<sup>8</sup> See Exhibit A at 9-10.

<sup>9</sup> Email documentation available upon request.

comes from her refusal to name other participants, although she has been apprised of important developments and sat in on stakeholder meetings.

Consequently, as members of shared governance who value the diverse opinions of all faculty, we have attempted to bring in as many elected faculty representatives as possible to the committees. We have taken an active role in reviewing the accreditation application and offering constructive feedback. While the Chair may dismiss us and the other elected representatives serving on working groups as “faculty representatives with a history of not questioning administrative decision making,” we are confident that if you question the Provost, the President, or our deans you will find that statement is inaccurate. Rather, we are faculty who will constructively engage with the administration, consistent with the spirit and letter of the Memorandum of Shared Governance.

With this in mind, we would like to address in more detail the concerns about the accreditation switch.

### *1. The Reasons for the Switch & Financial Ramifications*

Provost Folks has repeatedly shared the reasons behind the accreditation switch—namely that WSCUC is a more collaborative organization to work with on accreditation matters.<sup>10</sup> She has also answered questions about the financial ramifications of the switch (none).<sup>11</sup>

To the extent that the letter alludes to bad behavior on the part of WSCUC in considering UA Arizona’s accreditation application, we do not share in that belief, nor have we heard anything to support that theory.

### *2. Perceived Bad Behavior by President Robbins*

The at-risk compensation goal,<sup>12</sup> which the Chair calls an “incentive,” is part of a goal-setting mechanism within the Arizona Board of Regents (ABOR) annual performance review of presidents at all three state universities. Per ABOR: “At-risk compensation is intended to place a portion of the individual’s compensation at risk” if the ABOR-approved goals are not met.<sup>13</sup>

Given the wide-ranging implications of UA-UAGC integration, it would be negligence on the part of ABOR if its success was not included as a goal in President Robbins’s at-risk compensation. Correlation of compensation with achievement of objectives is not a “conflict of interest,” but is common practice in any successful organization.

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<sup>10</sup> See accreditation FAQs, <https://academicaffairs.arizona.edu/accreditation-faqs>.

<sup>11</sup> This information is also on the FAQ website. *Id.*

<sup>12</sup> Board of Regents Meeting, November 16-18, 2022. Item #4. <https://public.azregents.edu/Board/2022-11-16-through-18-Final-Board-Book.pdf>

<sup>13</sup> *Id.*

### *3. Planning for Change*

The Chair claims that planning for the accreditation change has not included shared governance representatives. As discussed above, the process has, in fact, involved several key members of shared governance, including, but not limited to: the Secretary of the Faculty, three appointed members of SPBAC, one elected member of SPBAC, the most recent past co-chair of SPBAC, and five elected senators (excluding the Secretary).

To the extent that other elected faculty members have been excluded, that is a problem of the Chair's own making, as discussed above.

### *4. Operational Concerns*

The Chair is correct that "blending hundreds of faculty, thousands of students and an estimated 800 staff" is a concern, and it is a concern that the UA-UAGC Working Groups are working diligently to manage. In fact, it is a concern that led us to serve on working groups. Our work would benefit from constructive participation from more elected faculty.

Furthermore, the sanctioned "management and recruitment tactics" mentioned in the letter and its relation to the integration of personnel have been addressed repeatedly, including by President Robbins in the September meetings of Faculty Senate<sup>14</sup> and in numerous shared governance committees by Senior Vice Provost Gail Burd. UAGC was thoughtful and ethical in their onboarding of staff from their former OPM Zovio and did not hire anyone that had a management role in previous operations that resulted in litigation. Having worked with both faculty and staff from UAGC in our working groups, we attest to their high level of expertise and professionalism and do not condone the insinuations made in the letter or disparagement of our UAGC colleagues. Like those of us at UArizona, our UAGC colleagues are dedicated to continuous improvement and are prioritizing student success through this process.

### *5. Timing of the Accreditation Approval*

The concern over the timing of the accreditation transition has been addressed repeatedly by Provost Folks and the leadership team involved in the decision-making process, including discussion of the important context of DOE's 2019 policy change. This is also explicitly addressed in the UArizona Accreditation FAQs webpage.<sup>15</sup>

As you are well aware, the UAGC integration was not the impetus for the change, but it provided an opportunity to collaborate with WSCUC that proved fruitful.

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<sup>14</sup> Exhibit H—Senate Mins 9.12.22

<sup>15</sup> <https://academicaffairs.arizona.edu/accreditation-faqs>

## 6. *Timing with Respect to HLC's Assurance Review*<sup>16</sup>

As this letter is addressed to an agent of an accreditation body, you are aware of the misrepresentation within this concern. Per the Higher Learning Commission University of Arizona Reaffirmation Action Letter (3 September 2021),<sup>17</sup> UArizona's accreditation was approved through 2030-2031. Indeed, we were found to "meet (and greatly exceed) the standards."<sup>18</sup> The full peer report is clear and unequivocal that "no interim monitoring is recommended."<sup>19</sup> As you are well aware as is typical policy, UArizona was scheduled to update their assurance argument (self-study) in year four of this ten-year cycle.<sup>20</sup> The letter misrepresents this routine and universally required practice as an "intermediate assurance review which may have been planned to assess progress in shared governance and legal matters," again making unsubstantiated allegations that when checked against the facts are demonstrably false.

Additionally, instead of "escaping the scheduled reviews," UArizona has opened itself to a more thorough review of its practices through the seeking-accreditation process, which is a far more robust process than a mid-cycle self-study assurance argument.

### **III. Other Shared Governance Matters**

Finally, the letter raises other shared governance concerns that we feel compelled to address in order to correct the record.

#### *1. Furlough*

The COVID furlough has been discussed ad nauseum in the Faculty Senate and other shared governance platforms. We are attaching to this letter Exhibit F, the minutes from a Faculty Senate meeting where Senators questioned members of the senior leadership team on furlough repayment. Although the answer that shared governance received on the furlough may not have been what faculty wanted to hear, there is no question that university leadership has consulted with shared governance on the matter.

#### *2. General Education Refresh*

Several years ago the Board of Regents approved a general education refresh. Over the past several years UArizona and the other two state universities have been implementing the changes required by the Regents.<sup>21</sup> The Faculty Senate voted to approve "the General Education and process and implementation and moving forward with the program" at its April 5, 2021 meeting. We have attached

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<sup>16</sup> Full publicly available report: <https://hlc2021.arizona.edu/>

<sup>17</sup> Exhibit I—University of Arizona Reaffirmation Action Letter

<sup>18</sup> HLC Peer Review Outcomes <https://arizona.app.box.com/s/yxrpqyijrw1y6o7fbn73vfin9pjlca2>

<sup>19</sup> HLC Peer Review Report <https://arizona.app.box.com/s/6c1k21ve7hhtq2g2x5ts819kve7es0bi>

<sup>20</sup> HLCommission.org <https://www.hlcommission.org/Accreditation/accreditation-overview.html>

<sup>21</sup> There is a detailed program history at this website: <https://ge.arizona.edu/about/program-history>.

these minutes as Exhibit B. Although the specific “content” was not approved, such an action is not unusual, as the Faculty Senate does not approve specific courses.

Since that meeting, Dr. Susan Miller-Cochran, the Executive Director of General Education, has prepared several briefings for the Faculty Senate. We have attached as Exhibit C a document prepared by Dr. Miller-Cochran outlining materials prepared for the Senate and faculty participation in the General Education program. This document, which was compiled in 2021, does not include the additional information provided to the Senate since that date. That information is available on the General Education Website, <https://ge.arizona.edu/approval-timeline>.

### *3. The “Secret” Ashford Acquisition & Integration*

While aspects of the Ashford acquisition were kept confidential for legal reasons, prior to the acquisition the University senior leadership consulted with bodies of shared governance, most notably the Strategic Planning and Budget Advisory Committee (SPBAC). Once President Robbins was able to share information about the acquisition he did so. We have attached as Exhibit D just a few of the Senate and SPBAC meeting minutes where President Robbins and others addressed questions about the acquisition. Additionally, the President’s office shared a plethora of information and important documents related to the acquisition in a publicly available Box folder.<sup>22</sup>

The accelerated integration of UAGC into UArizona, which was announced in early 2022, came as a surprise to many elected faculty, us included. Prior to a public announcement, President Robbins attended a regularly scheduled Senate Executive Committee meeting and answered questions for nearly two hours. We have attached draft minutes from this meeting as Exhibit E. As these minutes demonstrate, President Robbins was clear that changes in DOE policy precipitated the acceleration. He also directly addressed the accusation raised in the letter that the integration violated prior promises made about not integrating UAGC.<sup>23</sup> The minutes demonstrate that President Robbins welcomed input from the Senate Executive Committee and the University as a whole. Interestingly, four of the members of the Senate Executive Committee who actively questioned President Robbins about the accelerated integration are now serving on UA-UAGC working groups.<sup>24</sup>

### *4. Personnel and student grievances*

The University has mechanisms in place to review and address grievances from employees and students, including several standing Faculty Senate Committees. All cases that are brought to these channels are reviewed, addressed, and resolved. As with any system that addresses disputes, it is imperfect, and the involved parties and other interested observers, ourselves included, are not always happy with the

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<sup>22</sup> <https://arizona.app.box.com/s/gxjqjsswh8kcpnr5ydw71lmvdx1g6vg2>.

<sup>23</sup> See Exhibit E, page 2 (“Fink said that White gave Faculty Senate explicit assurance that UAGC (Ashford at the time) would never be part of UArizona, and this is written in the minutes. Robbins interrupted and said the minutes state him explaining the agreement was a three-year option with Zovio and Ashford to bring the venture into the University.”)

<sup>24</sup> Prof. Dysart, Dr. Sabrina Helm (who was then co-chair of SPBAC), Dr. Ron Hammer, and Dr. Bill Neumann.

resolution. At this point, however, it ceases to be a matter of shared governance and must be litigated within the judicial system.

Like at most universities, the shared governance system at UArizona is not perfect. However, we truly believe that President Robbins and Provost Folks are dedicated to working collaboratively with elected faculty. That collaboration must be a two-way street. As you can see from this letter, we and others in shared governance have attempted to open channels of communication and collaboration.

Thank you for your consideration of this letter. We are happy to discuss any of the matters raised with you or the site team.

Sincerely,



Tessa Dysart, J.D.



Caleb Simmons, Ph.D.