

UNIVERSITY COMMITTEE ON ACADEMIC FREEDOM (UCAF) 2011-2012 ANNUAL REPORT

TO THE ASSEMBLY OF THE ACADEMIC SENATE:

The University Committee on Academic Freedom (UCAF) met twice in Academic Year 2011-2012, to conduct business with respect to its duties as outlined in [Senate Bylaw 130](#). Highlights of the Committee's activities and accomplishments are noted in this report.

Proposed Revisions to Definitions of Academic Freedom and Faculty Code of Conduct

In 2010, UCAF proposed amending APM 010-Academic Freedom and 015-Faculty Code of Conduct to reflect the right of faculty to freedom of speech in shared governance. The committee agreed on the importance of taking this step following discussions about rulings in several legal cases. The proposal to revise APMs 010 and 015 was submitted to the Academic Council and was sent out for systemwide review in fall 2010. Senate committees and Divisions supported the proposed changes, and the proposal was submitted to the Office of the President for a formal administrative review, including a review by the Office of General Counsel. In March 2012, proposed revisions to APMs 010, 015 and 016 were sent out for a second systemwide review which was completed in June 2012. The feedback from the review was considered by Council on June 27, 2012. A majority of Senate agencies strongly supported the addition of language to APMs 010 and 015 as an essential clarification of academic freedom in the light of the *Garcetti* decision. A minority opposed the language because the rationale for its necessity was not presented and/or because they found the phrase "when acting as a member of the faculty" to be confusing and ambiguous. Council supported modifying APMs 010 and 015, as recommended, provided that (1) the ambiguous phrase "when acting as a member of the faculty" is deleted and (2) the comma following "publication" is changed to a semi-colon. Council recommended that Academic Personnel issue a brief summarizing recent court decisions and explaining the impetus for proposing language to protect faculty when they speak on matters of institutional policy and governance.

Privacy and Security Initiative

UCOP's Privacy and Security Initiative began in 2010-11 following a number of security breaches of personal information. UCAF was first briefed on the initiative in March 2011, and in March 2012 the committee was advised that the overarching policy was being finalized by the Task Force. Vice Chair Gundersen was able to report that academic freedom issues have been taken into consideration. The final version of the policy was not available this academic year to be reviewed by UCAF.

Research Using Animal Subjects

UCAF moved forward with finalizing a statement developed last year condemning the use of violence against researchers using animal subjects and in other controversial areas. The "[Statement in Support of Faculty Harassed by Opponents of their Research](#)" was endorsed by the Academic Council at its meeting on April 25 and submitted to President Yudof and Vice President for Research and Graduate Studies Beckwith. Council urged support for academic freedom and for the pursuit of research free from harassment, and condemned acts of violence and intimidation directed against them. This statement, which can be used as a model for letters to the editor and other public statements, also serves to educate the public and policy-makers about the importance of controversial research in advancing science and the public good.

In addition to the statement, the committee decided that a public education component is needed to show what has been achieved as a result of the controversial research. UCAF is interested in finding an organization to sponsor and raise funds for public forums where controversial types of research are discussed. The committee had preliminary discussions about the pros and cons of having debates, and whether UCAF can organize these forums or if committee members should work on this at their campuses. Vice Chair Gundersen and the UCI and UCSD representatives agreed to work on a subcommittee to pursue planning of the educational workshops next year.

Legal Fees for Faculty Accused of Misconduct in Research

In November, UCAF was joined by David Birnbaum, Deputy General Counsel, Office of the General Counsel of the Regents, to discuss a draft policy for chancellors on how to deal with whistleblowers and what the considera-

tions would be if a faculty member requested reimbursement. The policy was reviewed by the Council of Chancellors, individuals in the Office of the President and campus' counselors. The guidelines cover a variety of issues such as sexual harassment as well as academic freedom. UCAF submitted a memo in December 2011 indicating that the guidelines are reasonable. However, a review by the University Committee on Privilege and Tenure (UCP&T) found the draft guidelines inadequate and suggested revisions to address its concerns. At its meeting on June 27, the Academic Council unanimously agreed with UCP&T's concerns and recommendations. The Senate will work with the Office of General Counsel to resolve this issue.

Best Practices for Responding to Protest Activity

In late 2011, protests at UCLA, UCD and UCB resulted in confrontations between the demonstrators and police. During these incidents, police used pepper spray, batons and Tasers against protestors who were primarily students. These incidents raised questions regarding the various campus police departments' preparation and protocols used for managing protests and the policies for use of force. Chair Rehm and Vice Chair Gundersen were asked by the Office of General Counsel for input on best practices for responding to protest activity. In March, UCAF reviewed a statement of rights and a set of guidelines for responses, and OGC submitted a draft report, [Response to Protests on UC Campuses](#), to President Yudof in May.

Proposed Open Access Policy

The University Committee on Library and Scholarly Communication asked UCAF to provide informal feedback on a proposed open access policy for UC. An effort to implement such a policy five years ago was unsuccessful but there has been renewed interest in having a policy at UC. Other universities have since passed open access policies similar to the one proposed for UC now. Scholarly publishers are failing to make work available in open access to a satisfactory extent and passing the policy at UC will have a tremendous affect on the publishing industry's practices. UCAF members agreed that without the opt out policy there would definitely be academic freedom issues. The proposed policy will be sent out for an official systemwide review.

Respectfully submitted,

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