

## **UNIVERSITY COMMITTEE ON ACADEMIC FREEDOM 2020-2021 ANNUAL REPORT**

### **TO THE ASSEMBLY OF THE ACADEMIC SENATE:**

The University Committee on Academic Freedom (UCAF) met five times by videoconference in Academic Year 2020-2021 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.

### **CONCERNS ABOUT CENSORSHIP BY ZOOM AND OTHER PRIVATE PLATFORMS**

At the beginning of the academic year, UCAF learned that the video communication platform Zoom had canceled academic discussions at other institutions after receiving complaints and finding violations of their terms of service. The committee's primary concern was the dangers evident in UC's own contract with Zoom because the University routinely violates Zoom's terms and standards in the course of regular instruction, research, and extracurricular activities, and because under the contract, the power to decide what content to allow lies with Zoom, not the University. Following consultation with Information Technology and Academic Affairs at the Office of the President, [UCAF submitted a memo to Academic Council](#) with three recommendations which included negotiating with Zoom for contractual terms that protect the academic freedom of UC faculty and other teachers and researchers. The memo was endorsed by Council in January and transmitted to the Provost's Office. Provost Brown subsequently reported that the Office of the President and the UCAF Chair were actively negotiating with Zoom and that a revised Zoom policy was under review. On April 13th, Zoom announced a new content moderation policy for higher education users that—with limited exceptions—gives content moderation rights to universities and, thereby, protects academic freedom.

### **ACADEMIC EVENTS ON ZOOM AND 18 U.S.C. § 2339B**

UCAF welcomed the news of Zoom's policy for higher education users and the protections it afforded for academic freedom. However, the committee recognized that Zoom had reserved the right to cancel any event that the company determined might entail a "legal or regulatory risk" to Zoom. Specifically, this company, along with other private internet platforms, refused to host a seminar sponsored by faculty at UC Merced and the UC Humanities Research Institute which featured a speaker associated with a US-designated foreign terrorist organization, out of concern that the events could violate federal law by providing "material support" to a terrorist organization in violation of 18 U.S.C. § 2339B. In light of uncertainty about whether the statute applies to academic discussions like those canceled and about the impact of the statute on academic freedom, UCAF asked Council to call upon UC to file a preenforcement lawsuit, or to take similarly urgent steps, to clarify the reach of the federal material support statute. At its April meeting, Council unanimously endorsed the [request from UCAF](#) asking the University to seek clarification from the Department of Justice on the reach of the "material support" statute or to take other similarly urgent legal steps to protect academic freedom.

### **RESPONSE TO UCORP MEMO ON ANIMAL RESEARCHERS**

During UCAF's March meeting, the committee discussed a request from the Committee on Research Policy (UCORP) to sign onto its memo in support of animal researchers who are targets of harassment by animal rights organizations. These organizations have inundated UC faculty with a record number of Freedom of Information and Public Records Act requests which are extremely burdensome to both researchers and legal staff, and are clearly aimed at eliminating animal research at UC. UCAF supported UCORP's recommendation that UCOP establish a Presidential Task Force, or some similarly proactive response, to address these ongoing threats, rather than being reactive to pressures from the animal rights movement. Council endorsed the [memos from UCORP and UCAF](#) and transmitted them to the President's Office in April.

### **ACADEMIC FREEDOM IN TIME OF CRISIS**

Last year, UCAF sent Council a [Statement on Grading, On-line Teaching, and Shared Governance in Time of Crisis](#) which was not considered, so this March the committee agreed to resubmit the memo. The memo expressed concerns about some measures taken by administrators related to grading policy and remote instruction to address the pandemic. Specifically, UCAF pointed out that these issues are academic matters and, importantly, decisions made regarding them may impinge on the rights and responsibilities of faculty and academic freedom. Council declined to endorse the memo but agreed that UCAF's concerns were relevant to discussions about reopening UC campuses in the fall and recommended that the memo should be posted on the UCAF website. As planning for returning to campus went on, concerns emerged about getting faculty back into the classroom, so Council asked UCAF to consider the academic freedom issues at stake in decisions about teaching online versus in person as UC moved beyond the COVID era. In tandem with Council's [Systemwide Guidelines and Recommendations for Fall Campus Re-Opening](#) a statement from UCAF on [Academic Freedom and the Return to In-Person Instruction](#) was transmitted to the divisional Senates in May.

### **UPDATED MEMO ON DIVERSITY, EQUITY, AND INCLUSION STATEMENTS**

In March 2020, a memo from UCAF to Council about Diversity, Equity and Inclusion (DEI) statements was forwarded to the Committee on Affirmative Action, Diversity and Equity (UCAADE), which did not respond. This March, the committee submitted a revised memo on DEI statements to Council calling attention to faculty concerns about some campuses applying the 2019 guidelines for these statements inappropriately as a screening tool or in other ways that suggest DEI activities are a requirement or a litmus test of belief for faculty. UCAF's new memo along with a response from UCAADE were discussed by Council in April, and UCAADE proposed working with UCAF on a revised set of guidelines on DEI statements. The revised guidelines were endorsed by Council in June and will be transmitted to the divisions following consultation with the Systemwide Equal Opportunity/Affirmative Action Administrators Group.

### **OTHER ISSUES AND ADDITIONAL BUSINESS**

In response to requests for formal comment from the Academic Council, UCAF also issued views on the following:

- Systemwide Review of Proposed Presidential Policy on University of California Research Data and Tangible Research Materials

Additionally, UCAF devoted part of each regular meeting to reports on issues facing local committees and ideas for raising awareness and understanding of academic freedom throughout the University.

Respectfully submitted,

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