

## UNIVERSITY COMMITTEE ON ACADEMIC FREEDOM

## MEETING MINUTES

MONDAY, MARCH 13, 2017

**Attending:** Hugh Roberts, Chair (UCI), Christopher Elmendorf, Vice Chair (UCD), Jeffrey Haydu (UCSD) (telephone), Jayson Beaster-Jones (UCM), Erika Rappaport (UCSB) (telephone), Emma Aronson (UCR), Eric Widera (UCSF) (telephone), Thorne Lay (UCSC), Jody Kreiman (UCLA), Violet Barton (Graduate Student Representative, UCM), Fabio Macciardi (UCI), Tom Andriola (Vice President & Chief Information Officer, UCOP), Jim Chalfant (Chair, Academic Senate), Hilary Baxter (Office Manager, Academic Senate), Fredye Harms (Principal Policy Analyst, Academic Senate)

**I. Welcome**

Chair Roberts noted that the proposed Openness in Research policy is not on today's agenda and that the issues related to cyber-security are still not very concrete. Remaining on the agenda are some items that may be fruitful, particularly the discussion about academic freedom in the current political climate, although UCAF might not reach a resolution about this issue today. Vice Chair Elmendorf will be next year's chair and if anyone interested in being vice chair should contact him.

**II. Consent Calendar**

**Action:** The December minutes were approved.

**III. Anti-Semitism Awareness Act**

Chair Roberts and Vice Chair Elmendorf have drafted a statement in response to the Anti-Semitism Awareness Act and would like the members' feedback. Chair Chalfant was available to explain the process for submitting the statement to Academic Council for endorsement.

**Discussion:** Members remarked that the statement is well crafted and agreed it would be a good idea to provide some background on the issue, including the Regents' Principles against Intolerance. The statement might begin by affirming that UCAF is concerned about the rising tide of anti-Semitic actions/incidents, and hate speech in general, on campuses but that this Act is not an appropriate response. Although UCAF's suggested modification was added to the Regents' Principles, that policy is not perfectly in tune with this statement. The Principles against Intolerance can be acknowledged but UCAF must have a much stronger statement.

The Act has an express provision that nothing should be construed to violate the First Amendment and in the statement, UCAF might recommend changing this to "the First Amendment or academic freedom." Establishing this principle could potentially make a valuable difference. In a time when UC is having problems with sexual harassment/violence, the committee may not want to say anything unnecessarily broad about how hostile environment law is or is not being implemented on campus. Chair Roberts commented that it might be necessary to run the risk of getting some pushback if we want to try to be as explicit as possible. The chair and vice chair will edit the draft to highlight the focus on the potentially dangerous consequences of the Act on academic freedom in teaching and research.

Chair Chalfant thanked the committee for the statement and likes extending this to include academic freedom, but suggested the statement should note that academic freedom does not mean one can say whatever one wants. The statement should be submitted to the Council and Chair Roberts should participate in that discussion. The Committee on Affirmative Action, Diversity, and Equity and the

Committee on Faculty Welfare might weigh in on this statement. The intended audience includes the campuses and especially the Chancellors, the Academic Personnel offices, and the Equity and Inclusion offices, and the statement might be brought to the attention of the Student Association. If the primary audience is the campus community, it is worthwhile to cite the guidelines released in the early 2000s by the Office of Civil Rights, which specifically raised issues related to academic freedom and hostile environment. Chair Chalfant will advise President Napolitano about the statement and will also speak with UC's State Government Relations unit about who should be notified.

**Action:** The chair and vice chair will revise the statement and send it to the committee for feedback.

#### **IV. Campus Reports and Member Items**

Davis: The Academic Freedom Committee solicited testimonials about how the travel ban had affected their work. The campus also had an incident involving Milo Yiannopoulos.

Merced: There are no issues to report from this campus.

Irvine: The travel ban has raised concerns, but there is nothing else to report.

Riverside: The campus received applications for an endowed chair, which the committee will discuss next week and Chair Roberts suggested reviewing the ad hoc committee report from UCI on endowed chairs that was part of December's agenda packet. This committee also has questions about the unmanned aircraft policy but UCAF members agreed that there are no clear academic freedom issues.

Los Angeles: The committee was approached by the Title IX officer who proposed discussing the overlap between Title IX and academic freedom and several members agreed that this as a good idea. There is a lot of confusion around Title IX. Chair Chalfant suggested inviting the systemwide Title IX Officer to a future UCAF meeting.

Santa Barbara: Milo Yiannopoulos was scheduled to speak, but was unable to come due to a scheduling conflict. Campuses might consider proactively teaching students positive ways to respond when there is disagreement. Threats against faculty in the Feminist Studies department have been brought to the attention of the Chancellor and EVC, and the divisional Committee on Faculty Welfare plans to discuss the incidents with local police. The representative shared that the Scholars at Risk program aims to help international scholars by creating temporary positions at campuses, and members should make other faculty aware of the program.

There is an effort to reinstate the Academic Freedom committee as a standing subcommittee of the divisional Committee on Faculty Welfare. The representative chairs an ad hoc committee with just three other members and welcomes ideas about how to address this. Given the current climate, Chair Roberts wonders if UCAF could make a statement that in light of the current political climate, the committee should recommend that divisions should establish committees on Academic Freedom or suggest changing the name to "Faculty Welfare and Academic Freedom" on campuses where these committees are combined. Chair Chalfant proposed that Executive Director Baxter could talk with the other executive directors and that Chair Roberts should come to an Academic Council meeting if this matter is discussed.

Santa Cruz: The committee has concerns about the FireEye cyber-security monitoring.

San Diego: The campus is politically inert and very quiet. The Committee on Committees has suggested that it might want to expand the Committee on Academic Freedom.

## V. Consultation with the Office of the President

- *Tom Andriola, Vice President & Chief Information Officer, UCOP*

Vice President Andriola has shared a PowerPoint presentation for this discussion. UCAF is interested in getting a sense of where the process is and would like to share concerns that have been raised at the campuses. Chair Roberts will attend the next meeting of the Cyber-Risk Governing Committee (CRGC).

Vice President Andriola reported that UC is learning about this topic and trying to navigate our way in terms of finding the right balances. An important question is how UC will handle the risks. How we find the balance point between taking the steps to provide good security which is important for privacy and supporting UC's mission can only be accomplished through dialog. There are questions about what the risks are and the appropriate steps to take at the level of the campus, medical center or systemwide. We built this effort around certain foundations that demonstrate our commitment to shared governance, and more faculty need to be engaged in these discussions.

This is a University issue, not an Information Technology issue. We are accountable for the actions taken and decisions made. But there needs to be more transparency and broad dialog inclusive of many stakeholders across the university before decisions are made. In the last six months, the CRGC has been benchmarking what UC and other organizations are doing. For example, the medical centers have been benchmarked against national best practices in healthcare. The regulatory landscape shows little tolerance for failures to take the steps necessary to secure and protect data. Fines can be very significant for an institution. UC has general liability insurance but also separate cyber-security insurance, and the University is treated as one entity by the insurance company. The insurance company wants to see things done uniformly across the campuses, with common practices and technologies. Having a threat detection layer has allowed UC to have very early warning signs and take appropriate actions to potentially stop attacks.

In terms of faculty participation and the threats we are facing, Chair Roberts asked what kinds of outreach is envisioned for the faculty community. It seems like there is a risk of pushback if faculty do not feel they have been consulted about this process and or that they do not have input into this process. Vice President Andriola responded that the CRGC leaves it to individual locations to figure out how they want to approach that conversation. The Cyber Responsible Executive, CIO and the local Senate committee at each campus are determining how to approach engaging faculty. Some campuses move more aggressively than others and this is based on campus culture.

Chair Roberts asked the vice president for more information about FireEye, including how it is being deployed. Vice President Andriola explained that after the UCLA attack, UC was faced with a serious question that could not be answered with any confidence: Did this happen anywhere beside UCLA? UC quickly put a service in place with a company called Fidelis to protect the University and then went through a longer process to find a partner to help with threat detection and prevention. A Request for Proposals was developed and there was a tremendous amount of effort to protect privacy and academic freedom as we negotiated the contract with FireEye. A standard baseline was established to allow UC to see a minimum requirement (or "the standard configuration") that enables UC to see the same things and detect the same activities across the campuses, and after that is then up to the campus to determine what further actions it can take. How and when the standard configuration is implemented is determined by each campus.

**Discussion:** Faculty are questioning the degree to which FireEye is forthcoming about how it retains or utilizes any of the metadata it collects. The vice president indicated that contract language speaks to what FireEye will do and upon request campuses have received detailed briefings with FireEye about these

types of questions. The FireEye service has been in place for only three months, but we have not yet seen any signs suggesting that the company is not adhering to the contract and this continues to be monitored. Faculty at UCLA's medical school have complained that FireEye very greatly reduces system performance, so some faculty are buying new computers left off-line to allow them to do high speed computational work. Vice President Andriola had not heard about the performance issue and will follow up.

Chair Roberts asked about the contract specifications for data retention. Two additional questions include whether the data is accessible by subpoena and what kinds of vulnerabilities UC is facing. The vice president indicated that there is no specific contract language and instead this is a variable that campuses can control. It is recommended that some amount of data should be retained for future threat correlation. The CRGC is looking at a target of around 30 days for data retention, but has left this as a local decision. UC's legal counsel is very attentive to the issue of potential subpoenas and the vice president stated that UC will not turn over data to the FBI or CIA or anyone else. UC's data will be kept confidential. Vice President Andriola will share the FireEye contract with the committee. Chair Chalfant suggested that UCAF might want to see the Office of General Counsel's analysis of that contract, so that will also be forwarded. Vice President Andriola expressed his appreciation for the partnership with the Senate on this effort.

## **VI. Consultation with the Academic Senate Office**

- *Jim Chalfant, Chair, Academic Senate*

Chair Chalfant commented on the 113 disciplinary actions under Title IX which were reported in the media. The names of the offenders were released for the more egregious offenses or cases involving repeat offenses. Peer review committees will be created to help chancellors determine the appropriate course of action. The Regents will adopt changes to the Faculty Code of Conduct at their March meeting. How UC will handle cases when an individual is not fired and there are protests when the individual returns to the classroom still needs to be determined. The Committee on Privilege and Tenure is very concerned about the possibility of double jeopardy. UCAF members received the Middlebury faculty letter about principles following the Charles Murray incident. There are some on the Council that wanted to endorse the Middlebury letter and some who preferred to wait. One question is when does speech targeting a group is in violation of UC's principles of community.

Chair Chalfant remarked that the work on cyber-risk should include discussions with faculty about old equipment and what type of data might be stored on it. The new policy says there should be strategy for handling data and equipment but most faculty are left to figure it out on their own. Chair Roberts indicated that there is a general lack of awareness of the breakdown in communication to faculty and the information is not flowing.

The new Vice President for Research and Graduate Studies is promoting the idea of collective excellence which means different things to different people. Collective excellence has recently been tied to concerns from graduate students about poor mentoring that has happened on occasion. Chair Chalfant is concerned that mentorship would become an automatic part of the evaluation process. In the past, UCAF discussed whether collegiality should be a factor in merits and promotions and decided against this and Chair Chalfant thinks that the collective excellence idea will not be added to the APM.

**Discussion:** A member remarked that the collective excellence idea does relate to changes in the Humanities. A group of female faculty at UCR received an ADVANCE grant and it was noted that the pressure to have more women and underrepresented minorities on committees, while well intended, puts more strain and time demands on younger faculty. The question is whether there is an academic freedom

issue because these individuals are not free to pursue the full range of their academic and research pursuits as a result of the pressure to serve. This has been discussed at UCSB for the past several years but the implications on academic freedom are unclear. A member commented that CAPs are doing well and it can function on the campuses.

Departments may not realize that they are in the position to guide CAPs whereas a member indicated that some history departments are very rigid in terms of requiring a second book in order to be promoted to Full Professor. There is nothing in the collective excellence document that UCAF members think needs to be added to the Academic Personnel Manual. Chair Chalfant indicated that there is a wide space between ideal mentorship behavior and what is outside the Faculty Code of Conduct.

## **VII. Academic Freedom in the Current Political Climate**

Chair Roberts invited members to give some thought to whether UCAF should draft a document in the wake incidents involving controversial speakers at UC campuses. One question is whether members think the Middlebury College statement of principles hits the right note. Another is if there a useful response that UCAF can provide at this time.

**Discussion:** A member cautioned against buying into language that it is the students on the left who are limiting academic freedom. There is a contingent of students on campus that feels that shutting down a speaker whose ideas they find noxious is an appropriate response and this is not conducive to UC's academic enterprise and it also contributes to the political marginalization of the University in the larger discourse about truth. There is a careful line that should be pointed out between academic speech and hate speech.

Questions include whether people have the right to say horrible things on our campuses; if the student associations or campus associations have the right to invite people with controversial opinions to the campuses; does a campus have the right to hear whatever it chooses to hear, and; who has the authority to determine when an argument is too extreme. Students have been objecting because student fees are being used to pay for some speakers. These incidents provide a teaching opportunity to distribute information regarding free speech. The chair and vice chair will try to draft something to circulate and then move forward from there or not.

## **VIII. New Business**

There was no New Business.

## **IX. Executive Session**

There was no Executive Session.

Meeting adjourned at: 2:45 pm  
Minutes prepared by: Brenda Abrams  
Attest: Hugh Roberts