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*Chair of the Assembly of the Academic Senate
Faculty Representative to the Regents
University of California
1111 Franklin Street, 12th Floor
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August 29, 2017

**JANET NAPOLITANO, PRESIDENT
UNIVERSITY OF CALIFORNIA**

Re: Statements on the Free Exchange of Information and ACR-21

Dear Janet:

The Academic Council has endorsed the attached University Committee on Academic Freedom (UCAF) statement *On the Free Exchange of Information*. The statement affirms that free speech is a key principle on which the University is founded, and notes that it is vital to the UC mission to allow all viewpoints to be expressed, including speakers that some students may consider offensive. Council also endorsed a second UCAF statement, also attached, supporting the CA Legislature's [Assembly Concurrent Resolution 21](#) (ACR-21). ACR-21 calls on California universities to adopt statements reaffirming existing commitments to free speech and academic freedom as well as the development of a culture among students and faculty in which ideas can be expressed freely.

The Council vote was not unanimous. Two members voted against the statements, and others expressed strong reservations and concerns that the statement *On the Free Exchange of Information* does not adequately acknowledge that University accommodation of reactionary guest speakers and so called "provocateurs" who espouse bigotry serves to endorse a climate of cultural violence on UC campuses against already-vulnerable students, staff, faculty, and administrators. In other words, these Council members emphasized that not all speech is appropriate for a campus setting in that not all speech has academic content, intent, or value. Moreover, individuals most targeted by hate speech shoulder a disproportionate share of the cost of free speech, in that they are asked to tolerate speech that they find intolerant.

Notwithstanding Council's endorsement of the enclosed, we remain troubled by the specter of bigotry and violence that exists in the current climate. Council recognizes that a significant difference exists between speech that is valuable in an academic setting and speech that is harassing, discriminatory, or racist. Council understands that part of the University's teaching mission is to develop in students not only a tolerance of others' right to freedom of expression but also appropriate means to counter speech with which they disagree. All agree that the University is bound by First Amendment law and cannot engage in viewpoint discrimination based on perceived academic content or any other standard. However, we also agree that public universities have a

vested interest and an obligation to protect vulnerable individuals on campus and to engage the consequences of the structurally different social positions of its students, staff, faculty, and administrators.

UCAF's statement does not imply that the University cannot or should not speak out against offensive speakers or take steps to prevent harassment or illegal activity. Indeed it encourages faculty to use teach-ins and other constructive forms of response to controversial speakers to ensure healthy debate. Speech that most consider devoid of academic content might still have academic utility. UCAF affirms that the University is a place for the free exchange of ideas, but also a place where we must cultivate our students' ability to think critically about those ideas and to examine relevant evidence, assumptions, and history. Above all else, the statement should be taken as support for efforts to create campus cultures in which all speech is protected and everyone in the community has constructive means to oppose speech with which they disagree.

It is Council's hope that the thoughtful statement from UCAF will contribute to the ongoing dialogue concerning First Amendment rights, including rights to protest, and that the faculty's simultaneous strong commitments to both those freedoms and also the welfare of those who feel harmed by threatening speech is clear.

Sincerely,

A handwritten signature in blue ink that reads "Jim Chalfant". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Jim Chalfant, Chair
Academic Council

Encl

Cc: UCAF
Academic Council
Senate Director Baxter
Senate Executive Directors



UNIVERSITY COMMITTEE ON ACADEMIC FREEDOM (UCAF)
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June 7, 2017

**JIM CHALFANT, CHAIR
ACADEMIC SENATE**

RE: UCAF STATEMENT ON THE FREE EXCHANGE OF INFORMATION

Dear Jim,

The University Committee on Academic Freedom is given the charge to “report[] to the Assembly upon any condition within or outside the University that, in the committee's judgment, may affect the academic freedom of the University and its academic community.” The committee has viewed with growing disquiet developments on university campuses (at the University of California and elsewhere) and in the wider political realm that seem to us to threaten some of the basic principles on which the academic enterprise is founded.

In 1919 Justice Oliver Wendell Holmes, in a dissenting opinion in *Abrams vs. United States*, gave us one of the most famous and influential defenses of the principle upon which American jurisprudence related to Free Speech has come to be founded:

when men have realized that time has upset many fighting faiths, they may come to believe even more than they believe the very foundations of their own conduct that the ultimate good desired is better reached by free trade in ideas—that the best test of truth is the power of the thought to get itself accepted in the competition of the market, and that truth is the only ground upon which their wishes safely can be carried out¹

If this is true for public discourse in the nation at large, it is even more pressingly true for the enterprise of academic argument. If we are not free to examine and test every claim, every hypothesis, if we are unable to consider all objections—however farfetched they may seem—to what we believe to be true then we are no longer participating in a genuine attempt to discover the truth. As John Stuart Mill said in *On Liberty*:

even if the received opinion be not only true, but the whole truth; unless it is suffered to be, and actually is, vigorously and earnestly contested, it will, by most of those who receive it, be held in the manner of a prejudice, with little comprehension or feeling of its rational grounds.

¹ <https://www.law.cornell.edu/supremecourt/text/250/616>

These essential principles seem to us to be threatened by an emerging trend in the culture of US campuses.

In a number of high-profile incidents, speakers with views considered abhorrent by students on campus have been prevented from speaking when campus administrators felt unable to guarantee the safety of the speaker or of other members of the campus community.² The common thread to these incidents is the belief that the appropriate response to discomfiting, offensive or inconvenient arguments and opinions is to suppress them, to refuse to give them a chance to be heard. While we understand that the expression of some opinions and arguments can be deeply distressing to certain audiences, it is vital to the mission of the university as an institution dedicated to the pursuit of truth, knowledge and understanding that it allows all viewpoints and opinions—so long as they do not constitute harassment or rise to the level of incitement of illegal activity—to be expressed and considered. In practice, this means taking especial care to defend the rights of those whose opinions we do not respect, whose viewpoints we consider abhorrent, to make their views heard. It is easy to defend the rights of speakers we agree with, and too easy to forget that their rights are only secure as *rights*, rather than privileges, if speakers of whom we disapprove can also appeal to them.

We call upon all campuses in the UC system to take active steps to combat these troubling developments. We encourage them to work to educate students in the history, philosophy and legal theory of free speech, and to work with students to help them develop more productive, effective and intellectually engaged methods of response to speakers whose opinions they dislike than the exercise of the “heckler’s veto.” It is crucial that students, and other members of the campus community, understand that to acknowledge a speaker’s right to be heard by those who wish to hear her does not imply an endorsement of that speaker’s position, or prevent one from vigorously contesting it. The best response to bad ideas is to expose their flaws and to demonstrate their falsity. Holding teach-ins where faculty with relevant expertise examine and rebut the claims of the speaker, inviting outside speakers who will make countervailing arguments, the active promotion of workshops in creative public expression or innovative and theatrical forms of nonviolent protest, engaging in peaceful demonstrations which make clear that the views of the speaker are not endorsed by the wider campus community are all constructive forms of response to controversial speakers which do not undermine our collective right to freedom of speech and avoid the simple trap of giving sympathetic publicity to the very views the protestors decry.

Sincerely,

A handwritten signature in black ink, appearing to read "Hugh Roberts". The signature is fluid and cursive, with the first name "Hugh" being more prominent than the last name "Roberts".

Hugh Roberts, Chair
UCAF

² See e.g., <https://www.nytimes.com/2017/02/01/us/uc-berkeley-milo-yiannopoulos-protest.html>;
<https://www.theatlantic.com/politics/archive/2017/03/middlebury-free-speech-violence/518667/>;
<https://www.nytimes.com/aponline/2017/04/14/us/ap-us-auburn-white-nationalist-.html>



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June 7, 2017

**JIM CHALFANT, CHAIR
ACADEMIC SENATE**

RE: UCAF STATEMENT ON THE CALIFORNIA LEGISLATURE'S ACR-21

Dear Jim,

UCAF urges the Academic Senate to endorse the California Legislature's Assembly Concurrent Resolution 21 (https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180ACR21).

As the Legislative Counsel's digest explains, "This measure would urge all private and public universities in California, to the extent that they have not adopted free speech statements consistent with the principles articulated by the Chancellor of the University of California at Irvine, and the Free Expression Statement formally adopted by the University of Chicago, to consider such statements as a model for developing and adopting free speech statements."

ACR-21 is a timely response to a number of troubling incidents, in California and elsewhere, in which the "heckler's veto" was used to shut down invited campus speakers who sought to express ideas that members of the campus community found offensive. UCAF has also sent forward to the Senate Cabinet a statement on the importance of the free exchange of information to the academic mission which we find broadly harmonious with the principles espoused by ACR-21.

Sincerely,

A handwritten signature in black ink that reads "Hugh Roberts".

Hugh Roberts, Chair
UCAF