



Office of the Academic Senate Chair
PHONE: (510) 987-9303
FAX: (510) 763-0309
E-MAIL: george.blumenthal@ucop.edu

Assembly of the Academic Senate
Academic Council
1111 Franklin Street, 12th Floor
Oakland, CA 94607-5200

May 19, 2005

SENIOR VICE PRESIDENT JOSEPH MULLINIX
BUSINESS and FINANCE

Re: AB 992

Dear Joe,

I would like to communicate to you the Academic Council's views regarding UC sponsored legislation AB 992. This bill would extend to UC police officers the same exemption from prohibitions against overhearing and recording communications without an individual's consent currently enjoyed by other police agencies in the state. In essence, this legislation would add both UC and CSU police to the list of exemptions contained in Penal Code Section 633.

During the 2003-2004 academic year, you asked the Academic Council for its views regarding this bill. At that time, the Council decided that the proposed legislation did not impinge upon academic affairs, and the Council consequently decided to take no position on this legislation. Based upon that decision of the Academic Council, I did not solicit Council's views regarding the bill when it was introduced this year. Subsequently, however, this legislation was brought up to the Council as a member's item. At our March meeting, the Academic Council did not yet decide on its position regarding this legislation, but it did request that the exemption for UC officers contained within AB 992 be replaced by "UC police officers," a request which I subsequently forwarded to you. Council greatly appreciates your willingness to amend the legislation to provide the exemption solely for UC peace officers.

At its April meeting, the Academic Council reversed its 2003-2004 position and concluded that this legislation does impinge upon academic matters at UC. As a result, the Council voted to oppose the adoption of AB 992. Members of the Council felt that a UC campus is an environment which must do everything possible to facilitate the free exchange of views and the freedom of expression so necessary for the advancement of knowledge. There was a fear that the broad right to eavesdrop and conduct electronic surveillance granted to UC police by AB 992 could produce a chilling effect on the ability of members of the academic community to freely express their views.

In the event that AB 992 should pass in the legislature and be signed into law by the Governor, the Academic Council believes that the administration can mitigate some of the more serious problems with this legislation by adopting several restrictions and conditions regarding the implementation of this expanded power of UC police. In particular, we suggest that:

- The authority delegated to the UC police under Penal Code Section 633 shall never be redelegated to anyone other than a fully trained and qualified police officer.
- The authority granted to UC police under Section 633 of the Penal Code should be used only to monitor or record the conversations of a suspect in a felony.
- After the completion of an investigation in which the UC police use the authority to monitor conversations granted in Penal Code Section 633, both the Chancellor and Divisional Senate Chair shall be given a detailed written report consistent with the privacy and security of the individuals involved on the actions taken under the authority of Section 633.

If these conditions are acceptable, we would recommend that they be incorporated into the Procedures Manual of the UC Police. We would also recommend, in that case, that the Academic Council be consulted should any change in these conditions be contemplated in the future.

The Academic Council has not instructed me to communicate its opposition to AB 992 beyond writing this letter to you, and consequently, I have no plans to pursue this matter outside the University. This reluctance to go further stems from a belief that the Senate has an obligation to clearly communicate its views on legislation to the administration before the University has taken a public position. As a matter of principle, however, I believe that the Senate does have the right to take a public position contrary to that of the University administration when the Senate has taken advantage of every opportunity afforded it to influence the University's position before that position is finalized.

To summarize, the Academic Council has voted to oppose AB 992, and this letter, which is a public document, is intended to communicate this position to you. Although I do not plan to testify on this bill or communicate with members of the legislature regarding the Senate's position, it is possible that other faculty members may choose to oppose this bill as individuals, and in doing so, they would have the right to cite Council's opposition to this bill and to use this letter as evidence of Council's views.

Best regards,



George Blumenthal
Chair, Academic Council

Copy: Academic Council
María Bertero-Barceló, Executive Director

GB/bm