

## **UNIVERSITY COMMITTEE ON ACADEMIC FREEDOM (UCAF) 2008-2009 ANNUAL REPORT**

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

The University Committee on Academic Freedom (UCAF) met twice in Academic Year 2008-2009, 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 Senate Bylaw Modifications Regarding UCAF Representation on Academic Council and the Term of the UCAF Chair**

In a March 2008 memo to Academic Council, UCAF requested amendments to Senate Bylaw [125.A.4.](#), adding the chair of UCAF to the Academic Council as a standing member, and to Senate Bylaws [128](#) and [130](#), changing the standard term of the UCAF chair from one year to two years. UCAF believes its presence on Council will fill a void in deliberations and contribute important insights on a broad range of issues under consideration by the executive Senate body, while a two-year chair will provide greater continuity to the committee. Council released the proposal for systemwide Senate review in August 2008. In December, Council rejected the motion to change its membership by adding UCAF's chair as a standing member of Council. Members felt that Council's current composition of ten committee chairs and ten divisional chairs provides a balanced perspective on issues. Council also expressed concern that a larger Council may be less functional.

#### **Implementation of RE-89 – Restrictions on Tobacco Company-Funded Research**

This year, UCAF continued to discuss the [compromise version](#) of RE-89 approved by the Regents in September. The policy does not prohibit faculty from accepting funding from tobacco-affiliated companies, but requires each campus chancellor to establish a scientific review committee to advise the chancellor about any such funding proposal. UCAF also reviewed campus reports to President Yudof on implementation of RE-89 and found that significant money from the tobacco industry is not being used to support research. UCAF solicited and received support from the University Committee on Research Policy for its recommendations that faculty members appointed by the divisional Chancellors to serve on these review committees be selected from a list supplied to the respective Chancellor by the divisional Committee on Committees; and that a representative from the divisional Committee on Academic Freedom and the divisional Committee on Research be *ex officio* members of these review committees. The intent of these recommendations is to explicitly insure Academic Senate engagement in the divisional research review process, especially regarding the selection of faculty with appropriate expertise to conduct scientific reviews; and to provide an explicit mechanism for Academic Senate oversight of the process to insure that the academic freedom of individual faculty research is protected. In a March 2009 letter, UCAF requested that the University Committee on Committees consider this request.

### **“Collegiality” as a Factor in Personnel Reviews**

UCAF revisited the responses from the University Committee on Academic Personnel and the University Committee on Privilege and Tenure regarding the use of “collegiality” in the evaluation of faculty for merits and promotions and its effect on academic freedom. Finding some contradictions among the responses and believing that the core issue was not addressed, in April, UCAF submitted a memo to Council with specific suggestions that would provide a greater degree of clarity on this issue than currently exists. UCAF proposed changes to APM 210 which would clarify the legitimate and illegitimate uses of the collegiality concept for consideration by UCAP, UCPT and Council. At its April meeting, Council declined to recommend incorporating the proposed language on collegiality into the APM, noting that existing provisions in the APM and in the Code of Conduct address many aspects of collegiality.

### **Legal Fees for Faculty Accused of Misconduct in Research**

UCAF asked Council to endorse its recommendation that UC policy be modified to require reimbursement of any legal fees incurred by faculty members who are found innocent of accusations of misconduct. In July 2008, Council asked UCAF to work with the University Committee on Faculty Welfare and the Office of General Counsel to craft a reimbursement entitlement proposal and recommended guidelines for legal fee reimbursement decisions. OGC met with UCAF during its November meeting to develop a plan for drafting the guidelines and had a preliminary discussion about criteria that should be satisfied in order for faculty to be reimbursed. OGC agreed that it would be useful to have the Senate’s perspective of what is appropriate to include in the guidelines. UCAF and UCFW will review the guidelines that will be drafted by OGC.

### **Hong vs. UC Regents**

UCAF monitored the case of Hong v UC Regents. Dr. Hong is a former UC Irvine professor suing UC and individual administrators alleging that he was denied a merit increase due to complaints he raised in faculty meetings and in the context of shared governance. UCAF members were concerned about the position taken by the University based on the Garcetti vs. Ceballos case. The Garcetti argument held that faculty speech uttered in the context of shared governance is not protected and that faculty can be disciplined by the employer, which narrows the interpretation of First Amendment rights in the workplace. The Office of General Counsel met with the committee in March to explain the different positions taken by UC and the individual defendants. UCAF will continue to follow the case which is currently in the 9<sup>th</sup> Circuit Court of Appeals.

### **Proposed Student Freedom of Scholarly Inquiry Principles**

A joint administration and Academic Senate task force developed the statement that articulates that students have freedom of scholarly inquiry. UCAF's proposed Student Freedom of Scholarly Inquiry Principles were endorsed by Academic Council in September and Approved by the Academic Assembly on January 30, 2008. The Assembly also asked that these '*Principles*' appear as a footnote in APM 010. In January, the Provost solicited comments from campus Student Affairs leaders. In June 2009, the proposed appendix to APM 010 with the Student Freedom of Scholarly Inquiry Principles was distributed for official systemwide review.

### **Additional Business**

UCAF devoted part of each regular meeting to reports on issues facing local committees. Discussions included details about specific academic freedom cases at UC and other universities. Finally, UCAF occasionally consulted with the Academic Senate Chair and Vice Chair on issues facing the Academic Council and Senate.

Respectfully submitted,

Patrick Fox, Chair (SF)  
Raymond Russell, Vice Chair (R)  
Ethan Bier (SD)  
Gregory Pasternack (D)  
Eugene Volokh (LA)  
Roberta Rehm (SF)  
Sonja Weaver-Madsen, undergraduate student (LA)

Paul Amar (SB)  
Ronald Amundson (B)  
Chris Connery (SC)  
Isaac Scherson (I)  
Erik Menke (M)  
Hironao Okahana, graduate student (LA)

Mary Croughan ((SF); Chair, Academic Senate, *Ex Officio*)  
Harry Powell ((SD); Vice Chair, Academic Senate, *Ex Officio*)  
Brenda Abrams, Senior Policy Analyst