UNIVERSITY OF CALIFORNIA   **ACADEMIC SENATE**
UNIVERSITY COMMITTEE ON ACADEMIC FREEDOM
TELECONFERENCE MINUTES
THURSDAY, MARCH 17, 2016

Attending: Kathleen Montgomery, Chair (UCR), Hugh Roberts, Vice Chair (UCI), Jeffrey Haydu (UCSD), Christopher Elmendorf (UCD), Rudy Ortiz (UCM), Erika Rappaport (UCSB), Ward Beyermann (UCR), Eric Widera (UCSF), Thorne Lay (UCSC), David Wagner (UCB), Fabio Macciardi (UCI), Eric Widera (UCSF), Jason Rothman (Graduate Student Representative, UCR), Dan Hare (Chair, Academic Senate), Jim Chalfant (Vice Chair, Academic Senate), Brenda Abrams (Principal Analyst)

I.   Announcements

Chair Montgomery welcomed members to the teleconference.

II.   Consent Calendar

Action: The December minutes were approved.

III.   Openness in Research

This is an ongoing information item from the Office of Graduate Studies and Research over the past year. The motivation behind the proposed policy changes and the objections to the changes were discussed with the committee at an earlier meeting. A summary from the recent presentation to Academic Council was included in the agenda packet. The minutes from Council indicate that the policy will be sent to the Senate, but the level and timing for review is unclear.

Discussion: UCSD is reportedly one campus pushing for the change to this policy. A member received a memo stating that the Office of the President will be sending the Openness in Research policy to the campuses for local input.

IV.   Consultation with the Academic Senate Office
- *Dan Hare, Chair, Academic Senate*
- *Jim Chalfant, Vice Chair, Academic Senate*

Chair Montgomery prefaced the discussion with the Senate leadership by describing concerns expressed by faculty about the Regents Statement on Principles against Intolerance, which was distributed two days ago. The Regents have decided to take an up-or- down vote on the Statement at their meeting next week, without requesting formal Senate review or allowing a window for public comment.

Chair Hare explained that the Academic Senate does not share governance with the Regents in the same way it shares governance with UCOP, and he acknowledged that the principle of shared governance has not been upheld when it comes to this Regents Statement. Although Chair Hare served on the workgroup, he had only one vote and could not insist on language that the Regents would not accept. The chair also pointed out that there is no implementation language in the Statement, in keeping with the Regents policy on policies. Regents policies are intended to be wide-reaching rather than to micromanage the campuses or chancellors. After the workgroup completed the statement in January, the Regents on the workgroup spent time trying to gain the support of the other Regents.

Chair Hare indicated there are positive aspects to the statement. The statement clearly delineates between protected speech and unprotected acts. Members of the workgroup gained a better understanding of

academic freedom as a result of this process. The late addition of "anti-Semitism" was made over objections raised by Chair Hare and the Office of General Council (OGC), who felt that once specific groups were added, it opened the door for protests from groups who may feel overlooked. The Regents maintained that aspects of the contextual statement are intended to address the expectations of other groups. Chair Hare considers the contextual piece to be non-binding and an historical appendix in its final form.

While Chair Hare is aware of the objections from the faculty, he said he expects the statement to be approved, regardless of any objections raised between now and next week's vote. It is not likely that the phrase "anti-Zionism" will be removed. The policy statement does make it clear that even unwelcome speech is protected, and by extension this should point out to the Regents that debate about Zionism or anti-Zionism is protected both inside and outside the classroom at UC campuses.

Chair Montgomery asked what role UCAF might have at this stage. After the vote, there may be an opportunity for UCAF to register its concerns and revisit the idea that all speech, however unwelcome, is protected, and UCAF could make it explicit that the committee believes that this also applies to anti-Zionism. This could help the campuses, whenever implementation begins, to make sure that any campus policies are consistent with the First Amendment and academic freedom. Chair Hare indicated that it would be best for UCAF to wait until after the Regents vote before making any further comment.

Discussion: A member expressed concern that the Statement was finalized on January 22 and not made public until March 15. Shared governance does not work if the Senate only has one week to respond to the Statement. The committee discussed whether UCAF could provide feedback before the Regents vote next week, although there is no formal process that would allow UCAF to inject feedback. Vice Chair Roberts suggested that UCAF could write an open letter to be published in the *LA Times,* given the strong editorial published by that paper yesterday. Chair Montgomery agreed to contact the editorial office to alert them to UCAF's plan to submit an op-ed piece following the Regents meeting next week. Chair Montgomery and Vice Chair Roberts will begin to work on drafting a piece, to be circulated to members for comment.

Another member noted that the current proposed policy is a major improvement over the Statement the Regents voted down last September. If UCAF comes out strongly opposed to the current proposal, it could do more harm than good. Members agreed that the contextual information is misguided and includes unsubstantiated assertions. A member indicated that the faculty voice should be heard before the Regents vote, and responding only after the fact would be troubling to one member.

The first and second paragraphs in the contextual piece are contradictory. Vice Chair Roberts proposed revising the language in the second paragraph to read [added words in italics]: "Anti-Semitism*, anti-Semitic forms of* anti-Zionism, and other forms of discrimination have no place at the University of California." This modified language would distinguish between legitimate and illegitimate forms of opposition to Zionism. Chair Montgomery proposed to send this language forward in a memo today so that Chair Hare can send it promptly to the working group. Members agreed, while expressing a concern that suggesting new language will give the impression that UCAF is happy with the rest of the document. However, members agreed with focusing on the internal consistency of the document in this memo.

Chair Montgomery asked where UCAF might have the most impact in the shared governance model in terms of how the campuses actually implement the policy. Chair Hare noted that the policy does not tell the campuses to act any differently from how they are already acting.

Chair Montgomery expressed gratitude to Chair Hare for his efforts on the workgroup, and, in particular, for his efforts to educate the workgroup members about the Senate's primary concern about academic freedom issues and the need to separate the policy statement from the contextual document.

Vice Chair Chalfant joined the committee to discuss the cybersecurity issue at UC. He reported that two companies are involved: Fidelis, which has been conducting the threat protection investigation, and a new company called FireEye to conduct more intensive monitoring at the health centers. The monitoring by Fidelis has been done at the "campus borders" and will continue, but this level of monitoring is not sufficient for what the medical centers would like. The five medical centers worked together with UCOP to identify FireEye. The contract with FireEye is on the verge of being signed.

UCOP is open to more Senate involvement, but whether monitoring will be done at all is not open to debate. Every campus will have a conversation with how Fidelis works and who will have access to the information. FireEye can do considerably more monitoring, including the monitoring of emails. This will not be installed on any general campus without deliberations between the administration and the campus. UCOP is only insisting on the current level of threat detection, which should be coordinated across the campuses. The division chairs will see a presentation at the next Council meeting about FireEye. The process of determining what campuses will do will take some time. Vice Chair Chalfant reported that OGC has provided feedback that, with some revised language, the monitoring is consistent with UC's policy on privacy. A new structure for involving the Academic Senate is being established and it will include the Committee on Academic Computing and Communications.

Discussion: A member asked if there will be an opportunity to revise a new policy on coordinated monitoring that appeared on the UCOP website without any notice or consultation. This policy stated that UCOP can demand that campuses conduct the monitoring. UCOP has decided that this is the limited amount of threat protection, and it will not be changed in the future. There is no official timeline given to campuses to start implementation procedures. The Senate leadership is ensuring that the divisions are given information as it becomes available. A meeting is being scheduled with the UCOP Chief Information Officer, Senate leadership and UCAF's chair and/or vice chair.

V.   Resources for Divisional Academic Freedom Committees

This item was not discussed.

VI.   Policy on Endowed Chairs and Donor Involvement in Faculty Searches

Vice Chair Roberts indicated that a discussion about this matter can be postponed. Committee members were encouraged to read the report from UCI, which explains the controversy at that campus. The vice chair asked members to find out if this is something that is occurring elsewhere or just at UCI. Nevertheless, a systemwide response may be needed, since campuses are looking for new sources of funding, and may need guidance about how to deal with strings attached to the gifts and endowed chairs.

Discussion: A member asked if the UCI report can be shared, and Vice Chair Roberts indicated that it was a public document, having been circulated to all faculty at UCI.

VII.   Campus Reports and Member Items

This item was not discussed.

VIII.   New Business

This item was not discussed.

IX.   Executive Session

There was no Executive Session.

Meeting adjourned at: 12 p.m.
Minutes prepared by: Brenda Abrams
Attest: Kathleen Montgomery