

## UNIVERSITY COMMITTEE ON ACADEMIC FREEDOM

## VIDEOCONFERENCE MINUTES

TUESDAY, DECEMBER 11, 2018

**Attending:** Eric Rauchway, Chair (UCD), Fabio Macchiardi, Vice Chair (UCI), George Dutton (UCLA), Sarah Schneewind (UCSD), Mary Furer (UCSB), Devra Weber (UCR), Gabriel Sarah (UCSF), Gail Hershatler (UCSC), Ty Alper (UCB), Mei Zhan (UCI), Brian Soucek (UCD), Frances Osran (Undergraduate Student Representative, UCB), Kum-Kum Bhavnani (Vice Chair, Academic Senate), Brenda Abrams (Principal Policy Analyst, Academic Senate)

**I. Introductions**

Chair Rauchway welcomed everyone to the meeting and members introduced themselves.

**II. Consultation with the Office of the President**

- *Susan Carlson, Vice Provost, Academic Personnel, UCOP*
- *Amy K. Lee, Director, Diversity, Labor, and Employee Relations, Academic Personnel, UCOP*

Chair Rauchway explained that UC's represented librarians want academic freedom to be included in their contract with the UC Office of the President. In response, the Academic Senate issued a statement indicating that a policy on academic freedom for non-Senate members should be created and that the existing policy, APM 010, applies only to Senate faculty. Provost Brown and Chair May will lead a small workgroup to craft policy delineating protections for non-Senate academics. The librarians want the Library Association of the UC to adjudicate issues of academic freedom. While academic freedom for this group of academics should be recognized in policy, it cannot be part of a bargain.

According to Director Lee, negotiations with the librarians began in April and the two key issues have been wages and academic freedom. UCOP's position has been that it is not appropriate for academic freedom to be in a collective bargaining agreement. What eventually emerged is there is not a shared understanding of what academic freedom is and that the rights, responsibilities and obligations of non-Senate academic personnel are not clear to individuals who are not faculty. UCOP has concluded that a policy defining the rights and obligations of for these academics is needed. Vice Provost Carlson noted that APM 010 does not clarify what happens in the realm of academic freedom to academics who are not faculty or students and that at many other universities, librarians are faculty. The new policy will address issues for other non-faculty academics including professional researchers, project scientists, specialists and other academic titles.

**Discussion:** A statement from the American Association of University Professors calls for academic freedom to apply to librarians since they teach and conduct research. However, one member indicated that teaching has been defined to include giving grades. With the Supreme Court decision on *Janus v. American Federation of State, County and Municipal Employees*, labor unions have increased their efforts to coordinate with one another. UC's represented librarians may be aware of contract negotiations between the University and the Unit 18 Lecturers. Since the Unit 18 lecturers' contract includes academic freedom, it is unclear why the contract for the represented librarians cannot also include it. The librarians were surprised to learn that APM 010 did not apply to them and what prompted them to ask for academic freedom in their contract is unknown.

Members are dismayed that academic freedom for the librarians is not already recognized in policy. The general public is following the negotiations and the University should have acted much more quickly to

resolve this matter. Although the bargaining is out of the committee's sphere, UCAF will participate in crafting the policy language for the non-Senate academics. Senate Chair May will nominate individuals to serve on the work group and it is hoped that a UCAF representative will be included. Members agreed with Chair Rauchway's proposal to send a brief memo to Academic Council in time for tomorrow's Council meeting.

### **III. Recommendation Letters for Students**

Recently, a University of Michigan (UM) faculty member agreed to write letters of recommendation for a student but subsequently rescinded the offer upon learning that the student was applying for positions in Israel. The faculty member said he could not support this endeavor and UM is now considering disciplinary actions against the faculty member. Questions include if writing letters of recommendation is part of the standard duties expected of faculty or whether the letters are an expression of the faculty member's professional opinion and therefore covered by academic freedom.

**Discussion:** One perspective is that the UM faculty member's political views are not a valid reason to refuse to provide a letter and any objections should be grounded in academic reasons. Others on UCAF asserted that there is no obligation to write letters and that faculty have the right to refuse to write them for any reason. It was suggested that the committee might think about and discuss other possible non-academic reasons behind why faculty would choose to not write a letter. Members agreed that the punishments imposed on the UM faculty member are excessive. There are no policies or procedures specifying if or how a faculty member should be punished in this type of case. A slightly different dynamic might be at work when faculty are mentoring a graduate student, and the primary advisor's refusal to provide a letter for a graduate student would raise questions. Chair Rauchway clarified that UCAF has not been asked to devise a policy and the committee agreed not to take a position on this matter.

### **IV. Management Consultation**

UCAF has the opportunity to opine on the proposed revisions to Presidential Policy on Copyright Ownership. The proposed revisions are undergoing a limited Management Consultation and will be sent out for a full Senate review at a later date.

**Action:** The committee agreed to not opine on this matter.

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

Berkeley: The CAF meeting was cancelled due to the wild fires and will be rescheduled.

Davis: The CAF is discussing a situation involving a UCD faculty member who received a Freedom of Information Act (FOIA) request. There is interest in developing a policy about the extent to which faculty members' emails are subject to FOIA requests. The committee discussed concerns the disparate impact of teaching evaluations on the basis of race gender, but it is not clear if this is under the purview of academic freedom. UCAF members would be interested in finding out what UCD develops on this matter.

Irvine: The committee has briefly discussed the issue of academic freedom for represented librarians but there are no other significant concerns.

Los Angeles: The CAF has discussed a new University policy on management of data captured on closed circuit cameras, although the academic freedom issues are not completely clear. Another topic under

discussion is a UC policy requiring administrators who invite controversial speakers to campus to notify senior administrators if there are plans to protest the event. The CAF has debated whether this is an infringement on academic freedom and may recommend that reporting be encouraged but not obligatory. UCD had a policy on video recording in sensitive research areas on campus but it is not clear which locations falls under this category.

Riverside: The committee meets this week and there is nothing pressing to report at this point.

San Diego: The CAF is crafting a document about possible threats to academic freedom. Members of the group Identity Eurpoa were on campus intimidating teachers and students. Faculty have been targeted by groups such as Canary Mission and Turning Point and the CAF is considering how to deal with these incidents.

San Francisco: The committee applied for a grant from the Chancellor's Office to sponsor a seminar on UCSF's participation or partnership on revenue generating ventures. Faculty have concerns about some of the companies which are blamed for many issues such as the housing shortage in San Francisco.

Santa Barbara: The Proposed Presidential Policy on Open Access for Theses and Dissertations has been discussed by the CAF. Some members believe there should be no possibility of embargo whereas others suggest there should be a six year (or even longer) embargo.

Santa Cruz: The committee launched a website with resources on academic freedom. The CAF's previous feedback on the embargo on Theses and Dissertation has not been incorporated into the policy currently under review. Several UCSC faculty and students are listed on Canary Mission's website, which is run anonymously. The CAF is also considering if it is time to update the campus code of conduct so it addresses issues related to social media.

Student Representative: Given the AFSCME protests and strike, there is a question about whether faculty can speak in classrooms about the issue. Chair Rauchway clarified that faculty have broad latitude to discuss matters such as this in class. It might be a violation of the faculty code of conduct to engage in a political rant.

## **VI. New Business**

Vice Chair Macciardi recently found a report on a UCSF HIV lab which received a seven year NIH grant in 2013. The lab was using modified fetal tissue to understand the interactions of specific drugs for HIV treatment. The researcher was recently notified by the NIH that the grant would end in March 2019 and was informed that the decision had been made by high level political administrators, not by the NIH. Last year, UCAF issued a statement to President Napolitano on the politicization of research funding. Interference based on political decisions is unwelcome and dangerous for academic freedom and freedom of research in general.

**Discussion:** Chair Rauchway proposed that UCAF update and reissue the statement from last year on the politicization of funding and UCOP might be asked to issue a strong statement in support of the committee's position. The committee will ask that the memo be sent to UC's Federal Government Relations. Members have concerns about the chilling effect. Vice Chair Macciardi will confirm the details of the UCSF case with the representative from that campus.

## **VII. Executive Session**

There was no Executive Session.

Meeting adjourned at: 11 AM  
Minutes prepared by: Brenda Abrams  
Attest: Eric Rauchway