

UNIVERSITY COMMITTEE ON ACADEMIC FREEDOM

VIDEOCONFERENCE MINUTES

TUESDAY, DECEMBER 15, 2020

Attending: Brian Soucek, Chair (UCD), Leda Cosmides, Vice Chair (UCSB), Ty Alper (UCB), Benjamin Highton (UCD), Eugene Volokh (UCLA), Frederik Wilhelm (UCR), Farrell Ackerman (UCSD), Melike Pekmezci (UCSF), Paul Amar (UCSB), Minghui Hu (UCSC), Valeria Orue (Graduate Student Representative, UCR), Perry Meade (Undergraduate Student Representative, UCB), Susan Carlson (Vice Provost, Academic Personnel and Programs), Amy K. Lee (Associate Vice Provost and Deputy to the Vice Provost, Academic Personnel and Programs), Mary Gauvain (Chair, Academic Senate), Brenda Abrams (Principal Policy Analyst, Academic Senate)

I. Welcome and Introductions

Chair Soucek welcomed members to the videoconference and noted that the committee still does not have a representative from Irvine.

II. Consultation with the Office of the President

- *Susan Carlson, Vice Provost, Academic Personnel and Programs*
- *Amy K. Lee, Associate Vice Provost and Deputy to the Vice Provost, Academic Personnel and Programs*

Chair Soucek explained that a student obtained UC's contract with Zoom through a Public Records Act request and the chair contacted the Information Technology (IT) unit at the Office of the President (UCOP) for additional information. UC does not have any specific language in its contract that alters Zoom's terms of service and the terms of service are vague and broad with respect to the discretion Zoom has to cancel events. The IT unit suggested that Chair Soucek speak with Associate Vice Provost (AVP) Lee who agreed to meet with UCAF today along with Vice Provost Carlson. AVP Lee explained that, after hearing concerns about Zoom's cancellation of a San Francisco State University (SFSU) webinar, UCOP contacted Zoom. Zoom received a complaint about the SFSU event and quickly connected with SFSU's administration. However, since Zoom was unable to get confirmation before the event that the speaker would not be advocating acts of terrorism, as a private employer and platform not wanting to jeopardize its operations, the company decided to cancel the webinar. Webinars organized by the University of Hawaii and New York University featuring the same speaker, a reported member of the Popular Front for the Liberation of Palestine, were also cancelled by Zoom.

According to AVP Lee, Zoom wants to coordinate and work closely with UC to better understand the academic issues, and this is in part why President Napolitano was invited to join Zoom's board. Zoom seeks to set up a process to avoid ever unilaterally cancelling any UC events and this will include notifying AVP Lee and IT if the company receives a complaint. AVP Lee will in turn notify the Provost's Office and Senate leadership. Alternative platforms are available for use by faculty concerned about Zoom potentially cancelling events, but those privately owned and operated platforms may have similar legal constraints so faculty should check with campus IT about the available options. Zoom indicated that it does not actively monitor events and only gets involved when there is a complaint, and reported that there have not been any complaints about UC events to date.

Discussion: It is not clear why the other available platforms are campus-specific or why information about them is not advertised. A member asserted that Zoom's contract should include the terms that UC requests. Everything should be left up to UC with the exception of anything that is clearly illegal under federal law. Zoom's ability to censor events should be narrow in order to eliminate their need to make

case-by-case decisions about events on its platform. AVP Lee and IT have discussed amending the current contract and was informed that no other university has the type of contract amendments proposed by UCAF. The University should pursue contract amendments, and if Zoom refuses to modify the contract to waive terms of use to which UC objects, UC should utilize other platforms.

It is not clear if UC has concerns about other systems such as YouTube, Google Gmail and Docs, or Microsoft Teams. Contracts with some providers include specific clauses related to privacy and copyright which are favorable to UC, but censorship may not be addressed. Academic Personnel is willing to partner with relevant UC stakeholders to investigate the terms in contracts for other widely used services and platforms. The people in IT who negotiate these contracts think about this as a business transaction even though they are at a university, so it is important to make sure that academic concerns are fully recognized and appreciated. AVP Lee will take UCAF's feedback to IT and the Office of General Counsel. Vice Provost Carlson recommends that UC should pursue amendments to the Zoom contract, and suggested that UCAF should bring the concerns about Zoom to the attention of Academic Council.

III. Debrief: Discussion with the Office of the President

Chair Soucek asked members if they are in agreement with pursuing amendments to UC's contract with Zoom and exploring the alternative platforms.

Discussion: Members agreed to send a memo about Zoom to Academic Council.

Action: Chair Soucek will draft a memo for the committee to review.

IV. Campus Reports and Member Items

Santa Cruz: The CAF has met once this quarter and the main issue was the censorship by Zoom. The committee wondered if looking at other aspects of UC business for examples of how the University deals with corporations and for contract language would be helpful.

Santa Barbara: The CAF has discussed how to increase awareness of academic freedom and the committee is gathering information about the resources offered by other campuses as well as planning a town hall to discuss academic freedom issues. One goal is to help people understand the process of making claims regarding infringement on academic freedom, including when it is appropriate to go to the CAF as opposed to Privilege and Tenure or some other campus entity. There are concerns about faculty offices being inaccessible because of the pandemic.

San Francisco: The committee has considered the draft proposed Openness in Research policy. Another topic is the potential academic freedom issues related to IT security restrictions and the UCSF administration's mandates about the use certain equipment.

San Diego: The CAF wants to be more active this year. One concern is the increasing reliance on outside consulting firms that shape administrative policies and a growing distance between who is developing policy and the students, faculty and staff impacted by these policies. Some of the policies impinge on the rights of faculty to determine course content and the manner in which it is taught. This is a comprehensive undertaking partly motivated by the enormous increase in undergraduates and decisions made without consultation with the faculty. UCSD created a new template for how policy decisions should be made and a variety of committees were set up to reconsider various decisions using the template.

Riverside: The CAF wrote a memo about the incident involving Zoom's cancellation of the SFSU webinar as well as censorship in general. UCR's General Counsel explained to CAF that the focus of

U.S.'s anti-terrorism laws about aiding and abetting terrorism is on providing material aid but that providing a platform for someone to speak does not constitute aiding and abetting. The UCLA representative commented that providing communications facilities is specifically prohibited by the material support statute. Therefore, a Zoom session with someone speaking on behalf of a foreign terrorist organization seems to fit what the law prohibits. According to the UCLA representative, the Popular Front for the Liberation of Palestine is on the U.S. list of foreign terrorist organizations.

Los Angeles: The CAF has focused on the Iran sanctions after the administration seemed to instruct faculty not to engage in any work involving Iran. The committee hopes the administration will offer to assist faculty with the paperwork to secure exemptions to allow work with Iran to continue. The representative will share the CAF's recent statement about quoting offensive source material in class discussions, issued after an incident in UCLA's political science department.

Davis: No significant academic freedom issues have arisen at the campus and the CAF will meet at the end of January.

Berkeley: The CAF has discussed the proposed Openness in Research policy. Some members wanted to discuss the use of Diversity, Equity and Inclusion (DEI) statements and suggest that UCAF should consider following up on its memo to the Senate chair in March 2020. The analyst explained that the memo on the DEI statements was forwarded to the Committee on Affirmative Action, Diversity, and Equity and this committee has not responded.

Undergraduate student representative: Some of the issues students are discussing include privacy concerns related to being required to turn on their webcams during an online class, and a Harvard student group's letter about not giving faculty or other positions to individuals who served in the Trump administration.

V. Systemwide Review Item: Report and Recommendations of the Academic Planning Council Faculty Salary Scales Task Force

Chair Soucek invited members to share any comments about the report from the Faculty Salary Scales Task Force. Decisions about salary are more likely to be made by deans and department chairs as opposed to faculty. The question of who is making decisions about salary may be an academic freedom concern.

Discussion: The plan is to adjust the salary scales in phases starting with new hires and this may be inequitable. The salary scales issue might be similar to the DEI statements which raise concerns that as part of the peer review process, faculty are being told by the administration to look for certain things. There might be similar concerns about administrative interference in or discretion over decisions about faculty salaries, however the committee disagreed on this point. UCAF will not comment on this matter.

VI. Consultation with the Academic Senate Office

- *Mary Gauvain, Chair, Academic Senate*

Chair Gauvain explained that the President's Office devised a curtailment plan that was circulated for input and an updated plan will be circulated again. The approach used for calculating faculty compensation would have hit pensions hard, especially for faculty planning to retire within the next few years. Academic Council discussed this issue with President Drake who asked the Chief Financial Officer to correct the methodology. UCOP is attempting to give campuses flexibility in terms of how cost savings are implemented. The Senate is emphasizing the need for the Regents and UCOP administration to take faculty morale into consideration. The Committee on Faculty Welfare is very engaged with looking at the dimensions of faculty adaptation to the pandemic conditions.

The Senate is concerned about cybersecurity and foreign influence. New practices need to be put in place to increase the security of IT activities on the campuses and the Senate is trying to help IT understand the concerns faculty have about efforts to secure data and minimize risk. The move to remote instruction because of the pandemic has required faculty to make decisions about the best way to teach, deliver exams and any number of things about a course. The centers for teaching and learning (CTLs) on the different campuses have tried to engage with faculty in ways the CTLs believe are going to be helpful to the faculty, but some faculty have seen this as encroaching on academic freedom as the CTLs prescribe ways of delivering courses or interacting with students.

Discussion: Faculty at UCSD were told that the President's curtailment plan would not be implemented and that campuses would develop their own strategies to address the budget deficit but Chair Gauvain indicated that this is still being discussed. The chancellors want flexibility but other administrators with a systemwide perspective want a systemwide plan. UCSD's CAF has discussed the Centers for Teaching and Learning at that campus and there are concerns that the Center is creating policies that specify the content of courses or how professors deliver the content.

Chair Soucek described the committee's discussion with Vice Provost Carlson and AVP Lee about concerns related to Zoom and censoring, and noted that the committee will send a memo to Academic Council about this matter.

VII. New Business

The UCSD representative explained the Teaching and Learning Center has grown and funding is being directed to the Center as opposed to departments. The Center's focus has expanded to offering guidance about social justice issues. The number of undergraduate students has increased but there has not been an increase in the infrastructure to accommodate this growth. The Executive Vice Chancellor developed a model for collaboration in response to pressure from faculty. This model could be replicated in other areas to involve administrators, faculty and staff at all levels who collaborate to figure out the details of different policies. Each division at UCSD was able to determine how it would make budget cuts. UCAF members are interested in seeing the model for collaboration.

VIII. Executive Session

There was no Executive Session.

Videoconference adjourned at: 12:40 PM

Minutes prepared by: Brenda Abrams

Attest: Brian Soucek