

UNIVERSITY COMMITTEE ON ACADEMIC FREEDOM

VIDEOCONFERENCE MINUTES

THURSDAY, DECEMBER 16, 2021

Attending: Ty Alper, Chair (UCB), Melike Pekmezci, Vice Chair (UCSF), Sean Gailmard (UCB), Carol Hess (UCD), Terry Dalton (UCI), Susanne Lohmann (UCLA), David Jennings (UCM), Farrell Ackerman (UCSD), Alenda Chang (UCSB), Minghui Hu (UCSC), Perry Meade (Undergraduate Student Representative, UCB), Brenda Abrams (Principal Policy Analyst, Academic Senate)

I. Announcements

UCAF's recommendations regarding political statements posted on department websites was distributed for systemwide review at the beginning of the month. Members confirmed receiving the item via local campus channels.

II. Consent Calendar

Action: UCAF's September 23, 2021 videoconference minutes were approved.

III. Systemwide Review of Proposed Revisions to APM 025 and APM 671

The UCSC representative drafted a memo in response to the proposed revisions to APM 025 and APM 671. The proposed changes would expand the types of academic personnel who are covered by these policies. In the past, APM 025 only covered ladder rank faculty but the proposal is that it will cover graduate and postdoctoral students. Some faculty have trouble finding administrative support to help navigate the outside activities requirements, and this will be even more challenging for graduate and postdoctoral students. Chair Alper would like the committee to identify the issues specific to academic freedom. In addition to whom the policies will apply, the proposed changes expand the types of activities that require approval, and foreign-based activities will be subject to greater scrutiny and approval than domestic-based activities.

Discussion: The policy should include specific criteria on the approval of the Category I activities so campuses will share the same standard, and the nature of discretion that campus administrators will have to decline or grant approval should be clear. Faculty need clear information about when permission is needed and who needs to be asked for permission on each campus. A member speculated that many faculty are unaware that APM 025 exists or that permission is needed for various activities, but other members reported getting reminders about the requirements. One concern related to academic freedom is that the requirements will have a chilling effect on the individuals who would be covered by the revised policy. The UCSC representative agreed to update the draft memo which will then be circulated to members for comments.

IV. The China Initiative

The UCSB representative suggested that UCAF discuss the previous federal administration's [China Initiative](#), a Department of Justice policy that essentially profiles Chinese scientists and academics because of fears over economic and knowledge espionage. About a dozen academics have been investigated but charges have been dropped or the individuals were acquitted. However, Anming Hu, a professor at the University of Tennessee, Knoxville, was placed under house arrest and his university allegedly tried to create evidence against him. Professor Hu was eventually acquitted, but

had already lost his employment and reputation. UCSB had a listening session that featured eleven faculty members from across the campus who shared their concerns about the Initiative's impact on their research and academic freedom. Faculty are asked if they are working with certain Chinese companies when they apply for a grant through the Office of Research.

Faculty want more clarity about issues including the grants they should not apply for or companies they should not work with. Junior faculty members are concerned because there is pressure to get their research running. Some faculty have reported being unable to do their work because Chinese graduate students are not applying to UC or students who have been admitted are denied visas. The Defense Advanced Research Projects Agency apparently has guidelines assigning degrees of risk to researchers based on ethnicity and relationship to people or organizations in China and Russia.

In addition to grants, faculty have reported disruptions to professional activities such as peer reviewing papers from China. This has led to concerns around merit and promotion because the Initiative has disrupted career advancement and there are also concerns about graduate mentorship and recruitment. Chinese students and faculty at UC do not feel they can return to China out of fear of being searched and detained or having their electronic records seized, and it is unclear if the campuses will provide legal counsel or support if they come under scrutiny.

Reportedly, a blacklist of Chinese universities has been circulated and faculty are concerned about the consequences if they have collaborated with universities on the list in the past. It is not clear what could happen if the policies are not explained to faculty. A general concern is related to campus climate because people feel they are being racially profiled. Faculty at Stanford, Princeton and UCB have signed onto a letter asking the Biden administration to end the Initiative. The Initiative is having a chilling effect and it is relevant to academic freedom since it is impacting applications for grants and the ability of faculty to engage in their research.

Discussion: The Initiative uses tactics that have been used by the federal government in the past. UC has the opportunity to set an example and the Senate could make a statement that any accused faculty are innocent until proven guilty and that the administration should not prematurely fire any faculty. Members expressed concern about UC getting caught up in the political side of this matter. UCAF might want to collaborate on a memo with the Committee on Affirmative Action, Diversity and Equity and the Committee on Research Policy. Chair Alper recommended that UCAF clearly articulate the academic freedom concerns including that faculty do not feel they can pursue certain lines of inquiry (both in the classroom and in research) because the issues are too politically sensitive. The committee could ask UC to provide some assurances that it will defend faculty impacted by the China Initiative or take a stand against this policy.

V. Audio Recordings of Courses and Disability Accommodations

UCLA faculty are under considerable pressure from students to get audio recordings of a class and for there to be wholesale generic audio recordings of all classes and this seems to be spearheaded by the disabled student union (DSU). Individual disabled students already can ask the Center for Accessible Education (CAE) to furnish them with audio recorders and those requests are routinely granted, but the DSU is now asking for this accommodation for all students. The argument from a professor's point of view is that academic freedom gives faculty the right to say a class should or should not be recorded. A professor cannot object when the UCLA CAE furnishes a student with an audio recorder. One question is who has the right to decide if a course will be recorded, and at UCLA it could be the administration, the CAE if the student is disabled, an individual professor or

group of professors, or other students could say they do not want to be recorded. Another question is who has the right to be informed and who has the right to deny permission.

The recorders that disabled students use are owned by a private for profit technology company, Otter.ai, and the device transforms the audio into a written document. When a student records the class, all of the voice data from that class automatically goes to Otter.ai which uses the audio to train artificial intelligence. UCLA's administration entered a contract with this company without informing faculty or students. While professors and students may or may not have the right to say no to being recorded, they do have the right to say the voice recording data cannot be shared, but the administration has ignored this.

The UCLA representative teaches several courses on ethics and politics during which students routinely discuss morally charged and politically controversial issues. The release of recordings of such discussions could have negative consequences for the students on the recording. For several years, the UCLA representative and the CAE have been at odds about recording her classes and the CAE has prevailed until this year. The representative explained that her course now includes a module on human subjects protection which indicates that to protect human subjects, including other students in the class, students cannot record them. If a student does record the class, it proves the student failed to learn the module and will be given an F for the entire course. Even a CAE-certified student legally able to record this course can be given an F on academic grounds.

UCAF is asked to determine who has the right to decide if a class is recorded, who has the right to be informed, and who has the right to deny permission. Possibilities include: making a distinction between large lecture courses where only the professor speaks; advising that only the professor has the right to decide whether or not there is an audio recording; or it could be agreed that it is okay for the CAE to send individual students with audio recorders to a class. The UCLA representative has argued that classes in which there is even minimal student discussions should not be recorded, even by CAE registered students. UCAF should take the position that it is not acceptable to give Otter.ai voice data recorded by a CAE registered student. At a minimum, the administration should have to inform faculty and students that their voice data is being shared and give them the right to deny permission.

Finally, the UCLA representative believes that the punishment for students who take audio recordings and post them on social media should be strengthened. UCAF might want to assert that the audio recordings are solely for educational purposes and should not be used in judicial proceedings. It is already the case in California that recording someone without their permission is illegal and an illegal audio recording cannot be used in court. The punishment should be increased if someone does share a recording outside of class.

Discussion: The recording of classes has come up at UCD because of the pandemic. Students have to fill out a symptom survey and students who report any symptoms cannot attend classes in person, so lecture capture is used to generate a recording. The administration has said that UCD faculty should be teaching in person and that students should not expect to record lectures without an accommodation arranged by the disability office. Faculty are opposed to having sick students in their classrooms, so using lecture capture is preferred but other students should be informed that the class is being recorded and given the chance to deny permission.

According to the UCLA representative, a doctor provides the CAE with a note about a student's disability which is the basis for the disability specialist's request for accommodations. The specialist is supposed to take into account the individual details of the student and the course, but the process

may instead just involve the student selecting the accommodations they want from a list. The CAE specialist might tell a faculty member who pushes back on the request that they lack the expertise to make judgements about disabilities. The CAE specialist should balance the needs of the student with the faculty member's judgement about what is appropriate for their course. The UCLA representative has offered to pay for a note taker but this was declined, and the CAE specialist has asserted that the rights of disabled students outweigh faculty academic freedom rights.

A policy restricting the use of recorded lectures to academic purposes seems like a straightforward solution. Another issue is that CAE offices receive inadequate funding and a specialist might work with hundreds of students, thus they may rely on generic letters to request accommodations. At UCSD, there seemed to be an increased number of requests for accommodations before the pandemic but the requests spiked due to COVID-19. Faculty at UCSB have started adding the language of California laws about audio recordings and two party consent to their syllabi, along with a note about exceptions for accommodations. Chair Alper asked members to discuss this issue with their divisional committees and UCAF will revisit this matter in March. Chair Alper will also notify Senate Chair Horwitz about the committee's concerns.

VI. Campus Reports/Member Items

UCSD: The representative has encouraged the divisional CAF to consider the meaning of academic freedom in teaching (e.g. what are the criteria, what are the bounds, what are the rights?) and has recommended the book *Understanding Academic Freedom* by Henry Reichman. The book explores the history of academic freedom in the U.S. including the way it has changed over time and what it means to have freedom to teach. The committee has seen a campus proposal to have a separate unit evaluate all proposals for fossil fuel industry grants and weigh in on the advisability of submitting the proposals. The representative has been able to prevent this independent unit from being created.

UCI: The division's CAF is a subcommittee of the Committee on Faculty Welfare and a major topic of discussion has been the idea of achievement relative to opportunity put forward in the report from the Mitigating COVID-19 Impacts on Faculty Work Group.

UCB: A faculty member asked the CAF to weigh in on two issues. His department made a statement about the verdict in the Kyle Rittenhouse trial and this faculty member felt that the department had spoken for him without his consent. While the CAF agreed that this is a potential academic freedom problem, UCAF's guidelines about department statements, if approved, should address this situation.

The second issue is that this faculty member's department is setting aside resources to pay for graduate students to partner with faculty to update the rubric for the anti-racist measures used when refreshing course content. The department has stated that use of the rubric is voluntary, but the faculty member has concerns about implicit pressure to accept or express specific political viewpoints. The CAF acknowledged that it is appropriate for a department to identify collective priorities and to use collective resources to implement them, but it has to be clear that these are not demands. There is a concern that junior faculty face implicit pressure to toe the party line, which has serious academic freedom implications. A question is how junior faculty or other faculty facing significant career reviews can criticize the process without being accused of being racist.

Undergraduate Student Representative: The student representative shared an article about student instructors and academic freedom (<https://www.latimes.com/opinion/story/2021->

[11-28/editorial-colleges-overreliance-on-adjunct-faculty-is-bad-for-students-instructors-and-academic-freedom](#)) and proposed that UCAF discuss the academic freedom rights of lecturers and adjunct faculty.

UCSF: The CAF discussed a requirement that faculty include statements about issues (e.g. Black Lives Matter) on their lectures or CVs and there is a concern about UC forcing faculty to express agreement with certain positions. There is also confusion about whether Diversity, Equity, and Inclusion statements are required.

UCD: The CAF discussed statements posted on department websites and the representative will suggest that the divisional committee considers the issue of recording lectures.

UCLA: The committee is discussing students' academic freedom rights and freedom of speech. Before attending UCLA, a student athlete was recorded making racist comments and that recording was released on social media. In spite of his comments being protected free speech, the athletics department fired the student from his team without a formal process. The CAF is planning to work with intercollegiate athletics and to meet with the director of athletics. UCLA has a new joint Administration-Senate task force that will analyze all of the judicial proceedings on campus. The representative is concerned that civil liberties issues are not being addressed.

UCM: The CAF is combined with Faculty Welfare and has primarily been dealing with faculty welfare issues such as the research infrastructure on campus. The committee conducted outreach to departments across the campus and is soliciting general feedback from faculty.

UCSB: Some members of the CAF feel that UC's COVID-19 vaccination mandate oversteps its bounds. Although town hall webinars related to the mandate were held, dissenting faculty were not given the opportunity to voice their opinions. The committee also discussed the proposed policy on abusive conduct and bullying which states that disinformation could be considered abusive or bullying.

UCSC: The representative notified the campus's Asian American faculty group that UCAF would discuss the China Initiative and the group may have feedback for the committee.

VII. New Business

At this time it is unknown if UCAF will be able to meet in-person at the Office of the President for its March meeting, and the analyst will keep everyone posted.

VIII. Executive Session

There was no Executive Session.

Videoconference adjourned at: 12:15 PM
Minutes prepared by: Brenda Abrams
Attest: Ty Alper