

UNIVERSITY COMMITTEE ON ACADEMIC FREEDOM

VIDEOCONFERENCE MINUTES

THURSDAY, MARCH 4, 2021

Attending: Brian Soucek, Chair (UCD), Leda Cosmides, Vice Chair (UCSB), Ty Alper (UCB), Benjamin Highton (UCD), Terry Dalton (UCI), Eugene Volokh (UCLA), Carolin Frank (UCM), Frederik Wilhelm (UCR), Melike Pekmezci (UCSF), Paul Amar (UCSB), Minghui Hu (UCSC), Valeria Orue (Graduate Student Representative, UCR), Perry Meade (Undergraduate Student Representative, UCB), Mary Gauvain (Chair, Academic Senate), Robert Horwitz (Vice Chair, Academic Senate), Brenda Abrams (Principal Policy Analyst, Academic Senate)

I. Chair's Updates

Chair Soucek reported that the committee's letter on censorship by Zoom was endorsed by Academic Council in January and then transmitted to the Provost. Provost Brown's response to this memo was stronger than his December memo to the Council of UC Faculty Associations about this matter. The Chair and Associate Vice Provost Amy K. Lee from Academic Personnel and Programs have met with Zoom representatives including their lawyers twice since UCAF's last meeting, and Chair Soucek also met with the Senate leadership and UC Legal. Zoom's Information Technology (IT) people are focused on digital security and are not knowledgeable about academic freedom and 1st Amendment protections. It is clear from these discussions that Zoom does not want to be responsible for censoring people. The company proposed an amendment to their policies and Chair Soucek and Associate Vice Provost Lee have sent a counter proposal. Zoom has concerns about anything that would make the company criminally liable. Zoom is expected to send a final version of the policies for UC in the next couple of weeks.

Discussion: The point was made that "material support" is different from intellectual and academic engagement. Zoom may have a valid concern that an event featuring a representative of a designated terrorist organization could be interpreted as providing communications equipment to that organization. Provost Brown has asked UC Legal to look closely at the "material support" language to determine whether there is real cause for concern. While UC might be willing to indemnify Zoom, this cannot be done when criminal liability is involved. Zoom is a private company that is not currently subject to common carrier laws. Chair Soucek thinks Zoom will agree with the majority of what UCAF has requested, but the material support question will need to be resolved. The Provost and UC's IT representatives have indicated that there are no good alternatives to Zoom and it is unlikely that the terms of service for other platforms will be any better than those for Zoom. Members thanked Chair Soucek for his work on this issue.

II. Consent Calendar

Action: UCAF's December 15, 2020 videoconference minutes were approved.

III. Consultation with the Academic Senate Office

- *Mary Gauvain, Chair, Academic Senate*
- *Robert Horwitz, Vice Chair, Academic Senate*

Chair Gauvain shared that the Governor's preliminary budget for UC was not good but a new version has recently been released reverses some of the cuts to UC's budget. The Senate continues

to have concerns about line items and requirements in the budget that attempt to dictate what UC should prioritize. The problematic items include funding for specific types of research centers and a requirement to increase online courses by 10%, both of which should be decided by the Senate, not the State. The Chair and Vice Chair are involved with several groups focused on the COVID-19 pandemic including the vaccine rollout and campus reopening plans. There is variability across the campuses in terms of how much the administration is consulting with the Senate on developing these plans, so Senate leadership is advocating for increased faculty involvement with planning. Right now there is uncertainty about what classes will look like and there may be a mix of in-person and remote instruction, which could impact faculty workload.

Vice Chair Horwitz indicated that UC's affiliations with Catholic hospitals is still an issue. The Senate thought this matter had been resolved in 2019 but there are new questions related to affiliation that Academic Council will discuss later this month. President Drake's next symposium on campus policing will primarily focus on best practices and campuses will be encouraged to devise safety plans. Vice Chair Horwitz also mentioned concerns about academic integrity and students' use of social learning websites. Students upload course materials to these websites, which is an infringement of faculty intellectual property. After several discussions about this issue, it is still not clear how this situation can be addressed.

Discussion: Chair Soucek proposed that UCAF send a memo to Council about the conditions attached to the State budget for UC. Faculty are concerned about returning to campus unless students are vaccinated but students cannot be required to disclose if they have been vaccinated. Since the COVID-19 vaccine has only received emergency approval, UC probably cannot mandate it for students, faculty or staff. Even if the vaccination is mandated, enforcing it will be challenging and this is also the case with trying to enforce social distancing. Graduate Student Instructors (GSIs) and Teaching Assistants worry they will be asked to enforce rules the way Resident Advisors are responsible for enforcing policies in dormitories. Members discussed concerns about the social learning websites, including that the burden is on individual faculty members to send take down requests to the websites to have their course materials removed. Many faculty members have been surprised to find their course materials, including exams, posted online. One question is whether the posted course content has been altered.

IV. Updating Previous UCAF Statements

UCAF will decide if the committee's 2020 memos about the Diversity, Equity, and Inclusion (DEI) Statements and about academic freedom during the COVID-19 pandemic crisis should be updated and transmitted to Academic Council again. These memos were originally sent to Council in March 2020 but there was no response for reasons that are unknown. The committee should consider if the statements should be updated and either resubmitted to Council or posted on UCAF's website.

Discussion: Several members agreed that both statements should be posted on the UCAF website and support posting any documents approved by the committee. The analyst reported that the memo about DEI Statements was sent by the Immediate Past Senate Chair to the Committee on Affirmative Action, Diversity and Equity (UCAADE) instead of to Council in March 2020 and UCAADE did not respond. The memo regarding the pandemic crisis was submitted to Council but was apparently not discussed. Both memos could be sent to Chair Gauvain for discussion by Council with a request to disseminate them to divisional chairs and the administration. The analyst explained that the memos could be posted on UCAF website with disclaimers that they are not endorsed by Council, but it will then be up to the members to distribute them to relevant people at the campuses.

The committee agreed that the memo on academic freedom and the pandemic is still timely, and it will be valuable in the event of any future crises. Academic freedom and grading policies are connected, and it is likely that the issue of grading will reemerge in the fall if GSIs strike as expected. The memo on the DEI Statements is outdated and there are concerns about some of the recommendations it contains, so members suggested possible changes.

Action: Chair Soucek will circulate revised drafts of both memos to the committee for approval.

V. UCORP Memo on Animal Researchers

The Committee on Research Policy (UCORP) sent a memo in support of animal researchers to Council in January and Chair Soucek was invited to hear that discussion. UCORP's memo has been revised based on the feedback from Council and UCAF is asked to consider supporting this memo.

Discussion: Members expressed support for the recommendation to create a UCOP task force or office to help coordinate research and to assist researchers as they grapple with legal and political challenges around their research. However, the committee decided against advocating for animal research specifically but agreed to provide a memo broadly affirming the academic freedom rights of all UC faculty researchers and seconding UCORP's call that UCOP commit resources to the effort. Members also discussed concerns about the use of Public Records Act (PRA) requests to pressure and harass faculty. Chair Soucek indicated that campus General Counsel offices can assist faculty with PRA requests but it may take legislation to address this situation. It was also noted that faculty make use of PRA requests as part of their research.

VI. Campus Reports and Member Items

UCI: The CAF has been reviewing UCLA's academic freedom document and will develop a similar formal document for Irvine.

UCM: The campus had a successful week of activities related to free speech.

UCR: The CAF commented on a campus-wide faculty climate survey which raised concerns related to faculty welfare.

UCSF: The main issue for the CAF is UC's affiliations with Catholic hospitals, which was the subject of a heated debate at a recent divisional Council meeting. It is important to understand that the affiliation issue is related to academic freedom as well as to providing medical care.

UCSB: The representative is creating a public archive of resources on academic freedom. The divisional Committee on Faculty Welfare invited the representative and Vice Chair Cosmides to a discussion about the proposed Presidential Policy University of California Research Data and Tangible Research Materials, which is currently undergoing systemwide review. Per UC policy, the Regents own the faculty research data and faculty are legally mandated to curate and preserve the data so it is accessible. The policy was seemingly designed without involving a broad base of researchers and its focus is on ensuring that UC has some ownership in technologies developed by faculty that go to market. There are also issues related to the ethical principles of the human subjects and Institutional Review Board process.

The proposed policy was shared with some systemwide Senate committees for a management review in 2019 but UCAF was not consulted at that point. UCSB will insist that UC clarify that this policy will not apply to social, cultural or humanities research and that its application to the hard sciences should be carefully calibrated and specified. There is also concern about the academic

freedom implications of this model. The UCSB representative will share UCSB's draft memo on the policy with Chair Soucek who will prepare a response from UCAF about the proposed policy.

Undergraduate student representative: Students have ongoing concerns about the intrusive nature of the proctoring services used for remote instruction.

UCSC: This CAF also has concerns about the proposed Presidential Policy University of California Research Data and Tangible Research Materials. UCSC's chancellor has established a task force on student conduct which is related to the GSI strike last year. While over a dozen graduate students were disciplined but only students of color were dismissed following the strike. The divisional Senate and Graduate Council have identified potentially problematic aspects of the student conduct review process. The CAF believes that graduate students also enjoy academic freedom rights, and will monitor the work of the task force.

Graduate student representative: The Graduate and Professional Council is discussing how students were treated during one of the President's symposia on policing. Students were supposed to attend breakout sessions in groups of two but this did not occur and the students reported that they felt attacked and unable to express their opinions. The Council wants to prevent this from happening again during the next symposium.

VII. New Business

There was no New Business.

VIII. Executive Session

There was no Executive Session.

Videoconference adjourned at: 11:40 AM

Minutes prepared by: Brenda Abrams

Attest: Brian Soucek