UNIVERSITY COMMITTEE ON ACADEMIC FREEDOM
VIDEOCONFERENCE MINUTES
FRIDAY, APRIL 1, 2022

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), Ivy Zhang (UCR), Farrell Ackerman (UCSD), Alenda Chang (UCSB), Minghui Hu (UCSC), Perry Meade (Undergraduate Student Representative, UCB), Robert Horwitz (Chair, Academic Senate), Susan Cochran (Vice Chair, Academic Senate), Brenda Abrams (Principal Policy Analyst, Academic Senate)

I.   Consent Calendar

Action: UCAF's December 16, 2021 videoconference minutes were approved.

II.   Campus Reports

UCB: UCAF's guidance on posting statements on department websites has generated a lot of activity on campus and a new joint Senate Administration workgroup will study this issue in greater depth. The CAF has discussed California's ban on travel to certain states.

UCD: The committee discussed the issue of mandatory recording of classes at length and the student representatives were adamantly opposed to being recorded in small classes especially when sensitive issues are under discussion.

UCI: The representative is the only member of the CAF which is part of the division's Council on Faculty Welfare (CFW). The representative has spoken with various faculty who have concerns about UCAF's memo regarding posting political statements on department websites. A dean admitted telling faculty that they were expected to teach classes in dual modality but the administration is now reversing this policy, and the CFW is trying to get compensation for faculty who taught dual modality classes.

UCLA: Next year, UCAF should take up the issue of the sanctity of the classroom as well as privacy concerns related to the use of Otter.ai and FireEye. UCLA wants to put student representatives from the Center for Accessible Education into class websites meaning that the Center will be able to see everything that is happening and the CAF will issue a statement about the professor controlling who is in the classroom or on the website. The CAF passed a resolution stating that faculty and students have the right to be informed and consent or deny their consent to being recorded and having their voice data sent automatically to Otter.ai.

UCM: The CAF, part of Faculty Welfare, has considered some of the issues on today's UCAF agenda. The campus is proposing a policy to limit the way faculty can present themselves on social media and will require a disclaimer if faculty mention their institutional affiliation. The policy was poorly thought out and roundly criticized.

UCR: The CAF met last week and discussed issues related to mandatory recording of courses and the proposed policy on research data. Questions about the proposed research data policy include who will have authority to grant access to the data especially after the principal investigator leaves UC and when data access requests are in the public interest, and the committee believes that more clarity is needed to improve the policy.

UCSD: The CAF now has five members and meets monthly. The committee is now questioning its support of UCAF's recommendations about posting political statements on department websites. The issue of mandatory recording of classes will be considered.

UCSF: The CAF discussed political statements posted on department websites and the Diversity, Equity and Inclusion statements. The main issue for this committee is that UCSF is in the process of making an agreement with Altos Lab to allow post-graduate students to work there under the supervision of an Altos Lab employee with a mentor at UCSF. The discussion focused on whether the students will have the academic freedom to discuss the research with others without the scrutiny of a for-profit private company. The Senate issued a letter to the administration about this matter and the debate is ongoing.

UCSB: This CAF is part of the Faculty Welfare Committee and there is nothing to report.

UCSC: The CAF has been quiet.

III.   Second Systemwide Senate Review of a Proposed Presidential Policy on UC Research Data

Chair Alper explained that the proposed policy on UC Research Data was revised based on extensive feedback from last year's systemwide review. UCAF has the opportunity to opine.

Discussion: The primary issue for UCR's CAF is having access to archived research data after the principal investigator (PI) leaves UC. It is not clear who will have access to the research data, whether it is the Regents or the PI, or if a PI will have a say regarding who has access to the data. There are also questions about whether policies adopted by the relevant school or department will have an impact on academic freedom and how UC will maintain the research data. There is a concern that the proposed policy invests too much power in the vice chancellor for research (VCR) who reports directly to the chancellor rather than to the provost who represents the academic side. Under the proposed policy, the individual responsible for these decisions would be fairly insulated from both academic concerns and from any kind of like faculty oversight, and the Senate committees involved with research policy should have a consulting role.

Another question is what happens if a researcher wants to appeal the decision of the VCR and how this would be managed, and one idea is to have an independent body that includes faculty. A positive aspect of the proposed policy is that it mentions following best practices for the storage and maintenance of data, but there is no acknowledgement of how best practices vary across disciplines. One CAF is concerned that issues raised in the first systemwide review have not been addressed, including the recommendation to replace "full access" with "appropriate access" since certain data might include patient identifiers, for example. However, the language in the revision has now been changed to "unfettered access." The idea of faculty involvement with the decision-making has support.

Action: The UCM and UCR representatives agreed to draft a memo for UCAF's consideration

IV.   Next Steps ~ Recommendations for Department Political Statements

Chair Alper explained that Academic Council discussed the feedback from the systemwide review of UCAF's recommendations about posting political statements on department websites and the feedback has been shared with the committee as well. Council agreed in general with the recommendations but asked the committee to elaborate on a couple of points. Although there is no

policy prohibiting these statements, UCAF should emphasize the potential chilling effects of such statements and recommend that departments employ such statements more judiciously and responsibly.

Council would like UCAF to recommend that departments discuss creating a bylaw that defines what the department is and if it includes all faculty, only Senate faculty or graduate students so it is clear who statements represent. Council objected to identifying the individuals who support a statement and recommended instead that a statement notes that the majority of the department supports it. This might reduce concerns about coercion or a chilling effect on less powerful members of the department. One question that needs to be resolved is whether there should be space allocated for a minority statement, and there were strong opinions about this in the feedback from the systemwide review.

Discussion: A member was struck by the ferocity and variety of the responses, and how divisive the discussions have been in some departments. It may be prudent to state that faculty have the academic freedom to express their opinions but political statements cannot be posted on department websites. This approach would address concerns about the individuals who disagree not being coerced. Faculty who oppose statements being posted on department websites incorrectly assert that this is prohibited. The status quo is that these statements are not prohibited but the fact that there is no guidance should be rectified.

Academic freedom is an individual level protection and responsibility which does not protect the collective right of a department, and a department statement that allows a collective to speak for an individual is a violation academic freedom. One idea is to have a way for a department to consult with a divisional Committee on Academic Freedom and a department could be advised to make sure is has some scholarly expertise on the topic of the statement. UCSF's response to the UCAF memo pointed out that a department of medicine's recommendation about getting vaccinated for COVID-19, but the vaccination and wearing a mask became political issues. Banning political statements would lead to more problems so departments could be encouraged to think about whether they have expertise on the issue.

A member suggested that departments could hold and report an anonymous vote which would protect anyone who disagrees from having to share their view publicly. Chair Horwitz asserted that the argument about the department's expertise is a red herring. It was noted that the UCLA Women's Studies' statement was supported by the department as a whole but there was disagreement on the campus and across the system as well as from outside UC. In cases like this, the department would not police itself so the University would need to step in. Chair Horwitz indicated that UCAF is recommending best practices which will not involve policing, especially not by the administration. The committee should not get involved with questioning whether a statement is within the purview of a department's expertise.

Chair Alper suggested that the revised memo could highlight concerns about the potential chilling effects, and UCAF could recommend that a statement indicate that it does not reflect the unanimous views of the department. A member opined that the committee should say that political statements should not be permitted because UCAF does not have any criteria for what counts as political and cannot identify a practical solution to this problem. There was a good deal of criticism of the recommendation that departments should provide equal space for the minority viewpoints to be posted. This approach could get unwieldy given the possibility that there will be multiple dissenting views, so UCAF should not provide guidance that actually introduces more problems. The ability to express a minority view assume that all faculty in a department are well-informed about any issues

that could be the subject of department statements.

Chair Horwitz reiterated that UCAF is offering guidance that departments may or may not follow. It would be preferable for departments to report the results of anonymous votes on any statements rather than identifying the faculty members who support it. Based on this discussion, Chair Horwitz also indicated that UCAF should not make a recommendation about minority statements but it would be a good idea to suggest that departments consult with the divisional CAF when considering posting a statement. Chair Alper will rework the memo.

V. Diversity, Equity, and Inclusion Statements in the Hiring Process
- *Daniel Widener, Chair, Committee on Affirmative Action, Diversity, and Equity (UCAADE)*

According to UCAADE Chair Widener, in fall 2018 some of the UCOP Equal Employment Opportunity (EEO) and Affirmative Action compliance officers asked the Senate to draw up a series of guidelines for the use of diversity, equity, and inclusion (DEI) statements in hiring and promotion processes because campuses were going in different directions. The aim was to provide guidelines to which administrators and faculty at the campuses can refer in an effort to establish some consistent parameters. UCAADE, UCAF, the Committee on Faculty Welfare (UCFW), and the Committee on Academic Personnel (UCAP) discussed the language and eventually a draft was agreed upon. UCAF and UCAADE chairs presented the document to Council which was endorsed.

However, in fall 2021 administrators then expressed concern about not being consulted before the document was sent to Council and they were asked by Chair Widener to clarify their concerns. The EEO officers suggested two changes: 1) the addition of a paragraph on administrative DEI statements which Chair Widener struck because it is not in the Senate's purview to recommend how administrators evaluate each other, and 2) the addition of the phrase "minoritized groups" which Chair Widener struck as well. UCAP and UCFW proposed technical revisions related to the specific interface between the language of APM 210 and DEI statements. UCAADE wants to ensure that faculty speak to behaviors, policies, or actions and that they are not being asked to explain what they think or what they believe, but instead describe the programs they have been involved in that might have advanced DEI issues in their current or previous positions. Much of what the EEO officers proposed had to do with UCOP's values which is not directly relevant in the context of evaluating faculty. UCAF is asked to sign off on the set of guidelines which will be sent back to Council with a note that UCAF was consulted.

Discussion: It is problematic that administrators prevented the Senate from moving the guidelines forward because they are needed by the campuses. UCAADE wishes to remind the campuses that the Senate does not want an automatic process where faculty simply tick a box for DEI contributions but faculty should describe their work. It is also important that the correct answers are not embedded in the questions about contributions and that the document illustrates the many different ways that faculty engage in this kind of work. Chair Widener pointed out that, in the past, the administration has added numerical scoring metrics and the guidelines imply that this is not the right approach.

One suggestion is to amplify that this is a component of evaluation of Senate faculty by their peers on divisional Academic Personnel committees, not by administrators. There is a lot of fear that DEI statements are the administration's attempt to base evaluations on contributions to DEI or to make contributions to DEI a fourth leg for evaluation in addition to teaching, research and service. In response to this feedback, Chair Horwitz advised that the fact that this is not a fourth leg should be restated and highlighted multiple times throughout the guidelines. It must be clear that this will not

allow faculty to obtain tenure at UC and advance without achieving the standards of excellence in research that other faculty are accustomed to and which have made UC great. A member argued that UC is not just about research because it also has admirable social goals and aims to improve people's lives, so perhaps some weight could be given when a faculty member's DEI efforts are significant. It has also been argued that DEI statements are worthless and pro forma. UCAF members agreed that the guidelines should be submitted to Council again.

VI.   New Business

Chair Alper instructed committee members to discuss the systemwide review of the proposed policy on health care affiliations with their divisional CAFs and weigh in by Friday the 13th on whether UCAF should comment.

Members thanked Chair Alper for his leadership and Chair Horwitz expressed his gratitude for the committee's work on behalf of the Senate.

VII.   Executive Session

There was no Executive Session.

Videoconference adjourned at: 5:00 PM
Minutes prepared by: Brenda Abrams
Attest: Ty Alper