

UNIVERSITY COMMITTEE ON ACADEMIC FREEDOM

VIDEOCONFERENCE MINUTES

FRIDAY, SEPTEMBER 23, 2022

Attending: Melike Pekmezci, Chair (UCSF), Farrell Ackerman, Vice Chair (UCSD), Sean Gailmard (UCB), Gregory Downs (UCD), Joe Bristow (UCLA), Justin Yeakel (UCM), Ivy Zhang (UCR), Daniel Arovas (UCSD), Eileen Boris (UCSB), Roger Schoenman (UCSC), Brenda Abrams (Principal Policy Analyst, Academic Senate)

I. Welcome and Introductions

Chair Pekmezci welcomed the campus representatives to the first UCAF meeting of the 2022-2023 academic year. Vice Chair Ackerman suggested two books on academic freedom: *Understanding Academic Freedom* by Henry Reichman and *Academic Freedom in the Age of the College* by Richard Hofstadter.

II. UCAF's Charge and Recent Issues

The chair described the issues the committee handled last year. The main issue was political statements being posted on department websites regardless of whether the topic is related to the expertise of the faculty in that department. UCAF's position is that the Regents and UC should not limit any type of speech in any way, so the consensus was that there should not be a ban on posting political statements. The committee acknowledged the potential negative impact these statements could have on faculty with a minority viewpoint. UCAF's first set of recommendations underwent systemwide review in December 2021 and a revised set was submitted to Academic Council in May 2022, and there has not been any comment from the Regents to date.

Another central issue was the call from disabled students for the mandatory recording of all classes which arose at UCLA. While the request to record classes for disabled students on a case-by-case basis is reasonable, recording all classes would create an undue burden on faculty and it is not feasible to record some classes. UCAF's February memo recommending against mandatory recordings was endorsed by Council, but this issue could come up again. The committee also considered the issue of how diversity, equity, and inclusion (DEI) statements are used for faculty hiring and promotions. Guidelines were issued in 2019 about the use of these statements but there are still differences in how campuses use them. The focus on DEI is an important part of UC's mission and UCAF's main concern is that they should not be used in a general rubric that is scored by administrators. A set of revised recommendations was sent to Council and transmitted to the provost in May, but the administration has not responded.

III. Second Systemwide Senate Review: Draft Revised APM 025 and APM 671

Last year, UCAF weighed in on the proposed revisions to APM 025 and APM 671 and a new set of revisions has been disseminated for systemwide review. Chair Pekmezci explained the concerns the committee reported in response to the first systemwide review of the proposed revisions to APM 025 and APM 671. The committee was concerned about the proposed policy having a chilling effect among faculty with international connections or affiliate positions at international universities, and what is meant by "international" is not entirely clear. In addition, the first proposal did not address how administrators will manage or staff the pre-approval process.

Discussion: The language in the first proposal was implicitly racist and anti-Asian. The revised proposal clarifies that “international” refers to an association with a government agency of a nation other than the United States, and the use of the phrase “foreign influence” is limited. Proposed revisions to the policies have lessened the compliance burden although there are additional activities requiring pre-approval. There is no information about staffing and other resources needed for implementation. The policy states that faculty are responsible for complying with the policy, but faculty may be unaware of the many rules and regulations with which they are to comply.

The Federal government will not give UC any wiggle room, so the administration is shifting responsibility for compliance to individual faculty. Instead, staff who handle grants and contracts and who understand the specific requirements should manage the compliance process, while faculty should make a good faith effort and report any potential conflict. The policy goes to the core of academic freedom and compromises the ability of faculty to engage in academic projects and pursue scholarship without potential repercussions from UC, including some ill-intentioned investigations under the guise of compliance. It was noted that the existing web-based reporting system is not user friendly, and the site could offer comprehensive examples of the types of activities to be reported.

Action: The chair and analyst will draft a memo outlining the committee’s response and distribute it to the members by email for comment and approval.

IV. Second Systemwide Review: Draft Abusive Conduct Policy

Chair Pekmezci indicated that “bullying” has been removed from the revised proposed Abusive Conduct policy. The policy does not change the fact that there is academic freedom and that even passionate academic discussions are protected. The committee should consider if the wording about academic freedom is strong enough or if there are lingering concerns.

Discussion: The revised policy replaced the “reasonable person” standard with “objectively offensive,” but the meaning of this language is not clear. The committee disagrees with the objectively offensive standard because it implies that there are generally applicable objective criteria to evaluate a behavior and decide whether it is offensive or not. But UCAF considers each behavior should be evaluated in its own specific context, on a case-by-case basis. There is a concern that the policy could be used against someone whose political views are disliked. The proposal indicates that the policy should not be interpreted as prohibiting conduct that is legitimately related to course content, teaching methods, scholarship, or public commentary, but this is inconsistent with the statement that academic freedom is one of multiple factors that have to be balanced when judging if conduct is abusive.

UCAF could recommend that the policy explicitly state that it does not apply to conduct protected by academic freedom. However, several members disagreed with this position, pointing out that there is a tension between academic freedom and other values. Instances of racism or sexism that are persistent and involve a hierarchy of power have negative outcomes for the people affected. Academic freedom has been used as a shield for abusive behavior which makes a carve out related to academic freedom dangerous. One interpretation of this policy is that everyone should be moving towards a culture where, regardless of a discipline’s culture, there is no need for the kind of interactions that might cross the line. An advantage of the reasonable person standard is that it provides some kind of test against which to measure abusive conduct.

The committee discussed whether faculty want administrators to be responsible for deciding the extent of academic freedom. Reportedly, administrators at UCSD needed a policy on bullying in order to mete out consequences for faculty misbehavior that is not covered by existing policies. This raises concerns about implementation and how much power administrators should have. The proposed policy is not intended to supplant disciplinary processes described in the Academic Personnel Manual or Senate bylaws and regulations, so what this policy adds is not straightforward.

UCAF might recommend that the proposed policy apply only to non-academic employees because the academic freedom rights of faculty and overlapping jurisdiction with existing APMs to evaluate faculty conduct might complicate this issue. The committee could also acknowledge that there are legitimate reasons for managers to have a policy that applies to the people they supervise. It was noted that only administrators are responsible for enforcement. Members asserted that the Academic Senate, and the privilege and tenure or academic freedom committees in particular, should adjudicate if an incident violates academic freedom, thereby making the reasonable person a peer. The committee's response might state that, as it applies to faculty, this policy should not be used without the involvement of the Academic Senate.

Action: The chair and vice chair will draft a memo with the committee's feedback.

V. Topics for 2022-2023

In 2015, Council endorsed a UCAF statement on academic freedom and civility which was intended to be issued annually when campus chancellors send out civility statements. Chair Pekmezci asked members to monitor if the administrators' statements are still being disseminated, and if they are, in December the committee will discuss whether an updated statement on academic freedom is needed. Members were invited to suggest agenda topics for this year's meetings.

Discussion: Members are not aware of statements on civility being released by their chancellors. One member described how a divisional CAF's report regarding a department's violation of academic freedom was buried and not transmitted to the divisional Council. In December, UCAF should discuss whether there should be standards for what happens to reports by CAFs and there could be procedures to ensure that a finding by a CAF is submitted to the local Council. The committee might want to consider discussing the academic freedom implications of class recordings that are used by a private company to improve their artificial intelligence software. This software is currently in-use at least at UCLA and UCSF, and likely at other campuses, and it is related to accommodations for disabled students.

VI. Plan for In-Person Meeting at UCOP

UCAF can have one in-person meeting at the Office of the President in Oakland and Chair Pekmezci explained that there needs to be at least five hours of business to justify meeting in person.

Discussion: Members commented the videoconferences are efficient and are better in terms of the carbon footprint.

Action: The committee agreed to table a decision about meeting in person.

Videoconference adjourned at: 4:30 PM

Minutes prepared by: Brenda Abrams

Attest: Melike Pekmezci